

1 SYLVIA TORRES-GUILLÉN (SBN 164835)  
2 *storres-guillen@aclusocal.org*  
3 HANNAH COMSTOCK (SBN 311680)  
4 *hcomstock@aclusocal.org*  
5 AMERICAN CIVIL LIBERTIES UNION  
6 FOUNDATION OF SOUTHERN CALIFORNIA, INC.  
7 1313 W. 8th Street  
8 Los Angeles, CA 90017  
9 Telephone: (213) 977-5220  
10 Facsimile: (213) 977-5299

11 Attorneys for Plaintiffs

12 *Additional counsel on following page*

13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

**UNITED STATES DISTRICT COURT**  
**CENTRAL DISTRICT OF CALIFORNIA**  
**EASTERN DIVISION**

SIGMA BETA XI, INC.; ANDREW  
M., by and through his next friend  
DENISE M.; JACOB T., by and  
through his next friend HEATHER T.,  
on behalf of himself and all others  
similarly situated; J.F., by and through  
her next friend CINDY  
MCCONNELL, on behalf of herself  
and all others similarly situated,

Plaintiffs,

v.

COUNTY OF RIVERSIDE; MARK  
HAKE, Chief of the Riverside County  
Probation Department, in his official  
capacity; BRYCE HULSTROM, Chief  
Deputy of the Riverside County  
Probation Department, in his official  
capacity,

Defendants.

CASE NO. 5:18-cv-01399

**CLASS ACTION**

**COMPLAINT FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF,  
NOMINAL DAMAGES**

(Violation of: First, Fourth, and  
Fourteenth Amendments of the U.S.  
Constitution; Article 1 §§ 2a, 3, 7,  
and 13 of the California Constitution;  
California Government Code  
§ 11135)

1 CHRISTINE P. SUN (SBN 218701)  
2 *csun@aclunc.org*  
3 LINNEA L. NELSON (SBN 278960)  
4 *lnelson@aclunc.org*  
5 AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION OF  
NORTHERN CALIFORNIA, INC.  
39 Drumm St.  
San Francisco, CA 94111  
Telephone: (415) 621-2493

6 SARAH HINGER\*  
7 *shinger@aclu.org*  
8 AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION  
9 125 Broad St., 18th Floor  
New York, NY 10004  
Telephone: (212) 519-7882  
10 \**Pro Hac Vice* Motion to be submitted

11 DAVID LOY (SBN 229235)  
*davidloy@aclusandiego.org*  
12 MELISSA DELEON (SBN 272792)  
*mdeleon@aclusandiego.org*  
13 AMERICAN CIVIL LIBERTIES  
UNION FOUNDATION OF SAN  
DIEGO AND IMPERIAL COUNTIES  
P.O. Box 87131  
15 San Diego, CA 92138-7131  
Telephone: (619) 398-4489  
16 Facsimile: (619) 232-0036

17 SHEPPARD, MULLIN, RICHTER &  
HAMPTON LLP  
A Limited Liability Partnership  
Including Professional Corporations  
MOE KESHAVARZI (SBN 223759)  
*mkeshavarzi@sheppardmullin.com*  
ANDREA N. FEATHERS (SBN 287188)  
*afeathers@sheppardmullin.com*  
333 South Hope Street, 43rd Floor  
Los Angeles, California 90071-1422  
Telephone: (213) 620-1780  
Facsimile: (213) 620-1398

18 MICHAEL HARRIS (SBN 118234)  
*mharris@youthlaw.org*  
NATIONAL CENTER FOR  
YOUTH LAW  
405 14th Street, 15th Floor  
Oakland, CA 94612  
Telephone: (510) 835-8098  
Facsimile: (410) 835-8099

19 VICTOR LEUNG (SBN 268590)  
*vleung@aclusocal.org*  
ALEXIS PIAZZA (SBN 316047)  
*apiazza@aclusocal.org*  
AMERICAN CIVIL LIBERTIES UNION  
FOUNDATION OF SOUTHERN  
CALIFORNIA, INC.  
1313 W. 8th Street  
Los Angeles, CA 90017  
Telephone: (213) 977-5219  
Facsimile: (213) 977-5299

20 Attorneys for Plaintiffs

## **I. PRELIMINARY STATEMENT**

1. In Riverside County, California, school administrators have  
implemented an astonishingly punitive and ineffective law enforcement program. It  
places children under probation supervision for normal, childish behavior. By doing  
so, it systematically undermines our collective responsibility to give every child—  
regardless of race or ethnicity—the chance to stay in school and on track to succeed.  
Rather than supporting students to keep them engaged in school through mentorship  
and counseling, the County sweeps children into six-month terms of probation  
through its “Youth Accountability Team” (“YAT”) Program, for being “defiant,”  
“easily persuaded by peers,” or tardy to school; using “inappropriate language”; and  
behavior associated with grieving over the death of a parent. Every day that this  
probation program remains in place, we jeopardize the potential of hundreds of  
young people who are diverted away from educational success and toward the  
criminal justice system.

15        2.      Riverside County, through the Probation office and its allies, cannot be  
16 permitted to target, ensnare, and discriminate against children in our schools in  
17 Riverside County, by stripping them of their constitutional rights and treating them  
18 like criminals. This needs to stop. Riverside County cannot be permitted to continue  
19 to manipulate and financially benefit from this program on the backs of Riverside's  
20 children, especially Black and Latinx children.

21       3.     Riverside County, through the collective efforts of its law enforcement  
22 agencies, has subverted the purpose of the law under which the YAT program was  
23 created by quietly sweeping tens of thousands of children and adolescents into  
24 punitive probation supervision for the “offense” of childish behavior. These children  
25 are put on contracts that impose a laundry list of onerous conditions that set young  
26 people up to fail and also cause them to fall deeper into the criminal system. As  
27 former Senior Probation Officer Debbie Waddell stated when describing the YAT

1 Program, “what we’re really doing is using this program to get them into the system  
2 by fingerprinting and photographing them. We can search their homes any time we  
3 want and work to obtain evidence against them so that when we can get ‘em, we can  
4 really get ‘em!” Former Riverside County Deputy District Attorney Anthony  
5 Villalobos followed these statements, explaining, “We can do all kinds of  
6 surveillance, including wire taps on phones, without having to get permission from a  
7 judge.”<sup>1</sup>

8 4. Many children have fallen prey and suffered the constitutional  
9 violations and abuse that prevails in Riverside County’s YAT program. Plaintiffs  
10 Andrew M., Jacob T., and J.F., are students in Riverside County who are or have  
11 been placed on probation through the Riverside County YAT program for alleged  
12 school misconduct. Plaintiff Sigma Beta Xi is a non-profit organization providing  
13 mentoring services to children of color in Riverside County. Numerous Sigma Beta  
14 Xi mentees are or have been placed on YAT probation. They are among the over  
15 four hundred children placed on YAT probation each year. Between 2005 and 2016,  
16 12,971 children across Riverside County have been placed on YAT probation,  
17 including 3,219 for non-criminal offenses. Children as young as first graders have  
18 been referred to YAT.

19 5. Riverside County’s Probation Department operates YAT probation as  
20 an additional and more punitive and invasive layer of school discipline. Defendants  
21 refer to YAT as a diversion program, in which “informal” probation purportedly  
22 allows children to avoid the harsh penalties of being tried in court. Avoiding deeper  
23 contact with the juvenile justice system would be an appropriate objective for a  
24 diversion program. A substantial body of research shows that increased contact with  
25 the juvenile justice system is counterproductive and harmful to child development  
26

---

27 <sup>1</sup> David L. Roberts, Psyche-Soul-ology, An Inspirational Approach to  
28 Appreciating and Understanding Troubled Kids 67–69 (2007).

1 and rehabilitation. In practice, however, the “informal” nature of YAT probation  
2 leaves children worse off. YAT probation keeps the harmful contacts with the  
3 criminal system while eschewing procedural protections. Placing a child on YAT  
4 probation includes none of the safeguards of judicial process, such as access to  
5 appointed counsel, adequate notice of charges or the underlying facts, or any kind of  
6 impartial decision maker. At the same time, it imposes consequences that are often  
7 more severe than those that would be imposed by a court.

8       6. Rather than divert children, YAT draws more children into the criminal  
9 system. Probation places YAT officers on site in public schools across Riverside  
10 County and actively solicits referrals for things that would otherwise be addressed  
11 routinely by the school and better resolved through supportive interventions.  
12 Children are referred to Probation for alleged “behavior issues,” such as uttering  
13 profanity, being easily influenced by peers, being late to class, and being  
14 disrespectful. Defendants make use of an antiquated and unconstitutionally vague  
15 law intended to regulate “incorrigible” children, Cal. Welf. & Inst. Code § 601, to  
16 place children on terms of probation for these and other mundane school infractions.  
17 In the absence of clear standards, enforcement of this law is both arbitrary and  
18 discriminatory. Black and Latinx children in Riverside County are  
19 disproportionately referred to probation for incorrigibility. One Black child was  
20 placed on YAT probation for “pulling the race card.”

21       7. Placing children on probation under these circumstances is not only  
22 counter-productive; it also violates their constitutional rights. Children subject to  
23 YAT probation are required to comply with a long list of conditions, including  
24 curfews and reporting absences to YAT, that set them up to fail. They are routinely  
25 required to submit to drug testing and sign waivers permitting the search of their  
26 home and persons in violation of their Fourth Amendment rights. They are also  
27 required to comply with broad requirements not to associate with anyone not  
28

1 approved by Probation, infringing their First Amendment rights. Heavy-handed  
2 supervision conditions like these have been shown to be ineffective and even  
3 harmful.

4       8. Compounding the problems with YAT, Defendants place children on  
5 YAT probation contracts through an entirely informal process that is void of basic  
6 safeguards of procedural due process. Children ostensibly agree to submit to  
7 conditions of probation that interfere with fundamental liberty under coercive  
8 circumstances that preclude knowing, voluntary, or intelligent consent. Families also  
9 ostensibly agree to comply under the same coercive conditions. The Defendants fail  
10 to provide children and families with any formal notice of what children are charged  
11 with or the underlying allegations, their legal rights, or the juvenile court process.  
12 Instead, referral to YAT is communicated through a brief, informal, and inadequate  
13 conversation by phone or in person at school, in which Defendants sometimes  
14 blatantly misrepresent the nature of the YAT program and the consequences of not  
15 acquiescing to YAT probation.

16       9. Knowing little except that they purportedly face charges in the criminal  
17 system, children and their families enter a meeting with members of the YAT team,  
18 which include probation officers and law enforcement, often armed, and can include  
19 members of the prosecutor's office, without the information needed to refute the  
20 allegations or otherwise advocate for themselves. These meetings are held in YAT  
21 offices or local police stations. No semblance of an impartial decision maker is  
22 present. Children are not informed of their rights, including the right to remain silent  
23 or to speak with a lawyer. Instead they are led to believe that if they do not agree to  
24 enter the YAT program, they may be referred to the District Attorney's office, even  
25 when they are not accused of a criminal offense. Without their own advocate, and  
26 facing their first involvement with the criminal system, children, as well as their  
27 parents, are pressed to agree to a YAT probation contract. In these circumstances,  
28

1 children who often stand accused of as little as violating school rules are not able to  
2 make voluntary, knowing, and intelligent decisions to accept YAT probation's  
3 onerous conditions.

4       10. Beyond these constitutional violations, the injuries to children and their  
5 families arising from YAT probation far outlive the child's six-month probation  
6 contract. Through YAT, law enforcement officials compile and exchange a vast  
7 amount of information about a child, including their school records, which may  
8 include special education records, counseling records, details about their family  
9 history including contact with the justice system, substance abuse, domestic  
10 violence, and history with other social service agencies, and individual family  
11 member information. This includes information that law enforcement would have  
12 been prohibited from obtaining under the Fourth Amendment. Defendants retain and  
13 use this vast quantity of sensitive information even after the successful completion  
14 of a YAT contract. Indeed, even though Defendants claim that the YAT program is  
15 informal and intended to keep children out of the juvenile justice system,  
16 information obtained about a child through YAT may be used against them in future  
17 juvenile court proceedings. Once a child has been involved with YAT, no matter the  
18 basis, he or she is statutorily ineligible for any other diversion opportunity in the  
19 future.

20       11. Plaintiffs Jacob T. and J.F. bring this action on behalf of themselves  
21 and on behalf of a class of similarly situated children in Riverside County who have  
22 been placed on YAT probation or who have been referred to YAT but not yet placed  
23 on YAT probation. Defendants' operation of YAT infringes Plaintiffs' constitutional  
24 and civil rights under California and federal law, including their rights under the  
25 First, Fourth, and Fourteenth Amendments of the U.S. Constitution, the California  
26 Constitution Article 1, sections 2a, 3, 7, and 13, and California Government Code  
27 § 11135. Plaintiffs seek declaratory and injunctive relief from the ongoing injury to  
28

1 their rights. Plaintiff Sigma Beta Xi brings this action as an organization whose  
2 mission has been frustrated by the operation of YAT. Plaintiff Andrew M. brings  
3 this action on behalf of himself seeking nominal damages because Defendants  
4 violated his constitutional rights by placing him on YAT probation and injunctive  
5 relief against Defendants because they retained records collected or created in  
6 relation to Andrew's placement on YAT probation.

7 **II. PARTIES**

8 12. Plaintiff Andrew M. is a fifteen-year-old Black male who resides in  
9 Moreno Valley, in Riverside County, California, and attends Valley View High  
10 School in the Moreno Valley Unified School District. He appears in this action by  
11 and through his mother and next friend, Denise M., and will submit a motion to  
12 appear under a fictitious name. Denise M. resides with Andrew M. in Moreno  
13 Valley, California, and is a competent and reasonable person who is dedicated to  
14 acting in Andrew M.'s best interests and fairly and adequately representing him in  
15 this litigation. Denise M. is willing to act as Andrew M.'s next friend in this  
16 litigation and is sufficiently familiar with the facts of his situation.

17 13. Plaintiff Jacob T. is a sixteen-year-old white male who resides in  
18 Moreno Valley, in Riverside County, California, and attends the Riverside County  
19 Education Academy, a military academy associated with the Riverside County  
20 Office of Education. He appears in this action by and through his mother and next  
21 friend, Heather T., and will submit a motion to appear under a fictitious name.  
22 Heather T. resides with Jacob in Moreno Valley, California, and is a competent and  
23 reasonable person who is dedicated to acting in Jacob T.'s best interests and fairly  
24 and adequately representing him in this litigation. Heather T. is willing to act as  
25 Jacob T.'s next friend in this litigation and is sufficiently familiar with the facts of  
26 his situation.

27

28

1       14. Plaintiff J.F. is a seventeen-year-old Black female who resides in  
2 Moreno Valley, in Riverside County, California and attends Val Verde High School,  
3 a continuation school in the Val Verde Unified School District. She previously  
4 attended Rancho Verde High School. She appears in this action by and through her  
5 grandmother and next friend, Cindy McConnell. Cindy McConnell resides with J.F.  
6 in Moreno Valley, California, and is a competent and reasonable person who is  
7 dedicated to acting in J.F.’s best interests. Cindy McConnell is willing to act as  
8 J.F.’s next friend in this litigation and is sufficiently familiar with the facts of her  
9 situation.

10      15. Plaintiff Sigma Beta Xi, Inc. (“Sigma Beta Xi”), is a non-profit  
11 community-based organization located in Moreno Valley, California, that provides  
12 mentoring and leadership development services to approximately 220 children of  
13 color in Riverside County who are struggling in school. These mentoring services  
14 further Sigma Beta Xi’s mission “to establish strong families and communities by  
15 building an organization of diverse men and women who will exemplify leadership  
16 and professionalism based upon the principles of brotherhood, sisterhood,  
17 excellence, endurance, wisdom, service, and unity.”

18      16. Defendant Riverside County (“County”) is a municipality within the  
19 State of California, with capacity to sue and be sued. Riverside County Board of  
20 Supervisors (“Board of Supervisors”) is the governing body of the County. The  
21 Board of Supervisors is responsible for supervising all county officers, including all  
22 agencies and departments responsible for implementing and administering the  
23 Youth Accountability Program. Cal. Gov’t Code § 2530. The Riverside County  
24 Juvenile Justice Coordinating Council (“Council”), led by the County Chief  
25 Probation Officer, is responsible for developing a “comprehensive multiagency  
26 juvenile justice plan” (“JJCPA Plan”), pursuant to California Government Code §  
27 30061, through which it developed and continues to reauthorize and expand the  
28

1 operation of the Youth Accountability Program. The Board of Supervisors is  
2 responsible for approving the Council's plan each year.

3        17. Defendant Mark Hake, sued in his official capacity, is the Chief  
4 Probation Officer for the Riverside County Department of Probation. Defendant  
5 Hake is also the Chair of the Riverside County Juvenile Justice Coordinating  
6 Council.

7        18.    Defendant Bryce Hulstrom, sued in his official capacity, is the Deputy  
8 Chief Probation Officer for the Riverside County Department of Probation.

9        19. Defendants are the officials responsible for operating the Youth  
10 Accountability Program, enforcing California Welfare & Institutions Code sections  
11 601 and 654, and implementing the policies, practices, and customs challenged in  
12 this Complaint.

13       20. Defendants, acting under color of state law, performed, participated in,  
14 aided and/or abetted the acts and omissions averred herein, proximately caused the  
15 damages averred below, and are liable to Plaintiffs for the damages, injunctive, and  
16 declaratory relief sought herein.

### III. JURISDICTION AND VENUE

18       21. Plaintiffs bring this action pursuant to 42 U.S.C. § 1983 for violations  
19 of rights secured under the First, Fourth, and Fourteenth Amendments to the United  
20 States Constitution. Plaintiffs also bring state claims under Article I, sections 2a, 3,  
21 7, and 13 of the California Constitution, and California Government Code  
22 section 11135.

23        22. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§  
24 1331 and 1333, because the matters in controversy arise under the Constitution of  
25 the United States. Additionally, pursuant to 28 U.S.C. § 1337, this Court has  
26 supplemental jurisdiction over Plaintiffs' state law claims made under the California

1 Constitution and the California Government Code because such claims stem from  
2 the same case or controversy arising from a common nucleus of operative fact.

3       23. This Court has personal jurisdiction over Defendants because they  
4 operate within this district, and because Defendants' acts and omissions took place  
5 within this district.

6 24. Venue is proper in this federal district pursuant to 28 U.S.C. § 1331(b).  
7 Defendants are located in the Central District of California and all of the acts and/or  
8 omissions complained of herein have occurred or will occur in this district.  
9 Additionally, Plaintiffs reside in this district.

#### **IV. GENERAL ALLEGATIONS**

1 A. Adolescent Development and Ineffective and Effective Interventions Across  
2 the Education and Juvenile Justice Systems

13        25. In recent decades, emerging research on adolescent development has  
14 prompted numerous reforms in juvenile justice and school-based approaches to  
15 children’s behavior. Research documents the process of adolescent development as  
16 marked by important changes in brain systems involving cognitive and behavioral  
17 control and socioemotional functioning.<sup>2</sup> As the Supreme Court recognized, the  
18 scientific research confirms “what any parent knows,” that children “are more  
19 vulnerable or susceptible to outside pressures,” and, in the context of interaction  
20 with law enforcement, can be easily “overawed and overwhelmed.” *J.D.B. v.*  
21 *North Carolina*, 564 U.S. 261, 272–73 (2011) (internal alterations, quotations, and  
22 citations omitted). Through adolescent development, children are unlikely to be

<sup>27</sup> 2 National Research Council, *Reforming Juvenile Justice: A Developmental Approach* 2 (Richard J. Bonnie et al. eds. 2013), <https://doi.org/10.17226/14685>.

1 motivated by sanctions and deterrent strategies, whereas individualized supports and  
2 positive incentives are more likely to help children to develop positive life skills.<sup>3</sup>

3       26. Recognizing these facets of adolescent development has important  
4 implications for responding to children's behaviors.<sup>4</sup> Across education and juvenile  
5 justice systems, it was once thought that harsher responses to children's misconduct  
6 were necessary to correct wayward children before they became hardened criminals  
7 and to prevent a wave of "super predators."<sup>5</sup> Today, researchers and policy makers  
8 recognize not only that this fear was misplaced, but also that these zero-tolerance  
9 approaches actually fail to prevent future recidivism or disciplinary issues and can  
10 have substantial negative impacts for children.<sup>6</sup> As the Government Accountability  
11 Office observes: "Students who face certain types of discipline in school may be  
12 affected in profound ways that influence their lives as adults. . . . Research has  
13 shown that students who are suspended from school lose important instructional  
14 time, are less likely to graduate on time, and are more likely to repeat a grade, drop  
15 out of school, and become involved in the juvenile justice system. The effects of  
16 certain discipline events, such as dropping out, can linger throughout an individual's  
17 lifetime and lead to individual and societal costs."<sup>7</sup> Recognizing this, many states  
18

---

19  
20       <sup>3</sup> Richard A. Mendel, Annie E. Casey Foundation, *Transforming Juvenile*  
21       *Probation: A Vision for Getting It Right* 10 (2018),  
22       <http://www.aecf.org/resources/transforming-juvenile-probation/>.

23       <sup>4</sup> National Research Council, *supra* note 2, at 2 (concluding that "[m]uch  
24 adolescent involvement in illegal activity is an extension of the kind of risk  
taking that is part of the developmental process of identity formation, and most  
adolescents mature out of these tendencies").

25       <sup>5</sup> *Id.* at 38–41.

26       <sup>6</sup> *See, e.g., id.* at 43–47.

27       <sup>7</sup> U.S. Government Accountability Office, *K-12 Education: Discipline Disparities*  
28       *for Black Students, Boys, and Students with Disabilities* 1 (March 2018),  
      <https://www.gao.gov/assets/700/690828.pdf>.

1 and school districts are moving to reduce reliance on suspensions, expulsions, and  
2 referrals to the justice system, relying more on supportive interventions and changes  
3 to school culture with demonstrated positive effects.<sup>8</sup>

4 27. Within the juvenile justice system, research also demonstrates the need  
5 to reassess prior approaches. Many interventions previously adopted in an effort to  
6 get tough on juveniles were not only misguided but ineffective and harmful to  
7 children. “Research shows that juvenile justice systems can do more harm than good  
8 by actively intervening with children who are low risk of reoffending.”<sup>9</sup>

9 Summarizing the research, the Counsel of State Governments (“CSG”) identifies a  
10 number of “generally ineffective” juvenile justice programs, including: overcrowded  
11 detention facilities, boot camps, curfews, and “scared straight and other ‘shock  
12 therapy’ programs.”<sup>10</sup> As with ineffective responses in the education system, these  
13 forms of intervention focus on control, discipline, fear and surveillance. Instead,  
14 CSG highlights successful approaches including the use of cognitive behavioral  
15 therapy, engaging families and supportive mentors, focusing resources on promoting  
16 positive behavioral change, and using developmentally informed means of holding

17

18

19

<sup>8</sup> See National Center for Education Evaluation and Regional Assistance, *What Works Clearing House: Behavior*, <https://ies.ed.gov/ncee/wwc/FWW/Results?filters=,Behavior> (last visited June 25, 2018).

<sup>9</sup> Elizabeth Siegle, et al., Counsel of State Governments Justice Center, *Core Principles for Reducing Recidivism and Improving Other Outcomes for Youth in the Juvenile Justice System* 9 (2014), <https://csgjusticecenter.org/wp-content/uploads/2014/07/Core-Principles-for-Reducing-Recidivism-and-Improving-Other-Outcomes-for-Youth-in-the-Juvenile-Justice-System.pdf>.

<sup>10</sup> *Id.* at 17 (citing Mark Lipsey, et al., Improving the Effectiveness of Juvenile Justice Programs: A New Perspective on Evidence-Based Practice (2010), [https://cjjr.georgetown.edu/wp-content/uploads/2015/03/ImprovingEffectiveness\\_December2010.pdf](https://cjjr.georgetown.edu/wp-content/uploads/2015/03/ImprovingEffectiveness_December2010.pdf)).

1 children accountable.<sup>11</sup> Recognizing the potential to do more harm than good, many  
2 states and localities are adopting reforms to limit children’s contact with the system.

3       28. Juvenile probation programs have not received the same level of  
4 attention as other facets of juvenile and criminal justice reform. However, as the  
5 Annie E. Casey Foundation recently reported, “the research indicates that  
6 surveillance-oriented probation is not an effective strategy for reversing delinquent  
7 behavior, with insignificant effects on reoffending and especially poor results with  
8 youth at low risk of re-arrest.”<sup>12</sup> Moreover, as Casey Foundation researchers  
9 summarize:

10       Studies dating back decades have found that many or most diversion  
11 program participants are accused of minor misbehaviors, which would  
12 be handled more appropriately with a warning—despite a large body of  
research showing that this “net-widening” dynamic of diversion  
programs sometimes does more harm than good.<sup>13</sup>

13 Instead, students accused of school misbehavior or accused of low-level offenses  
14 should be referred to appropriate service providers.<sup>14</sup> Probation officers should have  
15 no role in overseeing diverted children and rather should carry smaller caseloads of  
16 children convicted of crimes, and focus on positive behavior change for these  
17 children.<sup>15</sup>

18       29. The use of counterproductive and harmful interventions has greater  
19 consequence for children of color, who are more likely to be subject to punitive  
20 school discipline and overrepresented across the juvenile justice system. Research  
21 evidences substantial racial disparities in school discipline that are “not explained by  
22

23  
24       

---

<sup>11</sup> Siegle et al., *supra* note 9, at 18, 36–40.

25       <sup>12</sup> Mendel, *supra* note 3, at 7.

26       <sup>13</sup> *Id.* at 13.

27       <sup>14</sup> *Id.* at 27.

28       <sup>15</sup> *Id.* at 31.

1 more serious or more frequent misbehavior by children of color.”<sup>16</sup> Disparities in  
2 school discipline are most pronounced for offenses like “defiance” or “disrespect,”  
3 where school staff must rely on their own subjective interpretations to enforce  
4 school rules.<sup>17</sup> Racial disparities carry over to and persist within the juvenile justice  
5 system. For example, one study of the narrative reports of probation officers found  
6 that “probation officers describe black and white youths differently, referring to  
7 negative personality traits for black youths and more to negative environmental  
8 influences for whites,” and that “black youths were judged to have a higher risk of  
9 reoffending.”<sup>18</sup> Similarly, white youth are more likely to use marijuana, but Black  
10 youth are more likely to be arrested for marijuana possession.<sup>19</sup> To address racial  
11 disparities in the juvenile criminal system, CSG recommends practices that  
12 “promote objective decision making,” such as improving the quality of and access to  
13 defense attorneys, training on recognizing and overcoming explicit and implicit bias  
14 and becoming more culturally competent and continued oversight of the system.<sup>20</sup>

15

16

17

18

<sup>16</sup> Siegle et al., *supra* note 9, at 4 & n.7.

19

<sup>17</sup> Russell J. Skiba et al., *Race is Not Neutral: A National Investigation of African American and Latino Disproportionality in School Discipline*, 40 School Psych. Rev. 1, 101 (2011), <http://www.indiana.edu/~equity/docs/Skiba%20et%20al%20Race%20is%20Not%20Neutral%202011.pdf>.

20

<sup>18</sup> George S. Bridges & Sarah Steen, Racial disparities in official assessments of juvenile offenders: Attributional stereotypes as mediating mechanisms, 63 Am. Soc. Rev., 554, 561 (1998).

21

<sup>19</sup> Cylan Matthews, *The Black/White Marijuana Arrest Gap, In Nine Charts*, WASHINGTON POST (June 4, 2013), [https://www.washingtonpost.com/news/wonk/wp/2013/06/04/the-blackwhite-marijuana-arrest-gap-in-nine-charts/?utm\\_term=.1efda39c3684](https://www.washingtonpost.com/news/wonk/wp/2013/06/04/the-blackwhite-marijuana-arrest-gap-in-nine-charts/?utm_term=.1efda39c3684).

22

<sup>20</sup> Siegle et al., *supra* note 9, at 41.

1 B. History and Structure of the Youth Accountability Team Program

2       30. The California Juvenile Justice Crime Prevention Act (“JJCPA”) was  
3 passed in 2000 to provide funding for programs “demonstrated to be effective in  
4 reducing delinquency . . . including prevention, intervention, suppression, and  
5 incapacitation.”<sup>21</sup> When the JJCPA was passed, California, like much of the country,  
6 was focused on increasing criminal penalties and expanding law enforcement  
7 surveillance and control over children. Today, however, state and local actors  
8 recognize that their “tough on crime” approach left California hemorrhaging money  
9 on ineffective and counterproductive programs while ignoring the needs and  
10 characteristics unique to children and failing to provide them the tools, resources,  
11 and education they needed to succeed. The legislature has since passed a number of  
12 bills to reform the juvenile justice system to promote rehabilitation and protect  
13 children’s constitutional rights.<sup>22</sup>

14       31. The JJCPA, which requires county programs to be “demonstrated to be  
15 effective” and include a “continuum of responses,” Cal. Gov’t Code §  
16 30061(b)(4)(A)(iii), (b)(4)(B)(i), provides sufficient flexibility to permit local  
17 governments to similarly reform their juvenile justice practices in light of  
18 developing research and evolving best practices and to better protect juvenile rights.  
19 However, Riverside County continues to use millions of dollars in JJCPA funds to  
20 operate a program employing tactics shown to be counterproductive and even  
21 harmful to children.

---

22       <sup>21</sup> The Juvenile Justice Crime Prevention Act, Cal. Gov’t Code, §30061(b)(4)(B)(i)  
23 (2000). The Act was originally named the Schiff-Cardena Crime Prevention Act  
24 of 2000. *See* [http://www.leginfo.ca.gov/pub/99-00/bill/asm/ab\\_1901-1950/ab\\_1913\\_bill\\_20000908\\_chaptered.html](http://www.leginfo.ca.gov/pub/99-00/bill/asm/ab_1901-1950/ab_1913_bill_20000908_chaptered.html).

25       <sup>22</sup> *See California Legislature Approves Juvenile Justice Bills to Update Miranda  
26 Rights, Allow Parole for Youthful Offenders*, CAL. STATE SENATE (Sept. 15,  
27 2017), <http://sd33.senate.ca.gov/news/2017-09-15-california-legislature-approves-juvenile-justice-bills-update-miranda-rights-allow>.

1       32. In 2001, the County adopted a Juvenile Justice Plan that included the  
2 creation of the “Youth Accountability Team” Program run by the Department of  
3 Probation. The Youth Accountability Team Program has operated consistently since  
4 2001 as the most substantial component of the County JJCPA Plan. The Department  
5 of Probation runs YAT probation. Law enforcement agencies across the county as  
6 well as the District Attorney’s Office are also parties to a joint MOU setting out  
7 their roles in operating YAT.

8       33. YAT purports to operate pursuant to California Welfare & Institutions  
9 Code section 654, which provides:

10      In any case in which a probation officer, after [an investigation]  
11 concludes that a minor is within the jurisdiction of the juvenile court or  
12 will probably soon be within that jurisdiction, the probation officer  
13 may, in lieu of filing a petition to declare a minor a dependent child of  
the court or a minor or a ward of the court under Section 601 . . . and  
14 with consent of the minor and the minor’s parent or guardian, delineate  
specific programs of supervision for the minor, for not to exceed six  
months . . .

15      34. Section 654 permits the creation of a program of diversion from formal  
16 adjudication and the presumably more serious consequences applicable therein. A  
17 child is only eligible for a program of supervision under Section 654 for a first-time  
18 offense, and is ineligible if she has already participated in a program under Section  
19 654. Cal. Welf. & Inst. Code § 654.3. Children accused of certain offenses are  
20 presumed ineligible. *Id.*

21      35. YAT targets children “ages 12-17 years old who are purportedly  
22 displaying *pre-delinquent* and delinquent behavior” (emphasis added). This  
23 effectively brings more children, not fewer, into the juvenile justice system, relying  
24 on probation supervision to take the place of school-based interventions.

25      36. YAT officers aggressively solicit referrals for children considered to be  
26 “at risk,” which YAT broadly defines to include “family conflict, mental health,  
27 school adjustment, or gang involvement.” As one school district explained in  
28

1 responding to a public records request, “YAT . . . look[s] for students who have  
2 been involved in the first stages of school discipline, might have poor or failing  
3 grades, and are showing initial signs of moving toward more at-risk behaviors.”  
4 These children, who have not committed any criminal offense, are then placed on a  
5 regimented probation contract.

6       37. As Defendants have described in presenting the YAT probation  
7 program to school districts, YAT probation contracts “contain terms and conditions  
8 similar to those issued by the Courts to juveniles placed on formal probation,” such  
9 as curfew, weekly check-ins, home searches, and community service, and last for six  
10 months. “Cases may be terminated and forwarded to the YAT District Attorney at  
11 any time for possible adjudication in Juvenile Court due to non-compliance or  
12 violations,” and “[w]arnings, community restriction, and increased or additional  
13 terms may be added to an existing YAT contract at any time for non-compliance.”  
14 These terms mean that a school rule violation can be viewed by Defendants as cause  
15 to prosecute a child. The YAT probation contract likewise ominously states that  
16 “any violation of the terms and conditions may be grounds for referring the matter to  
17 the District Attorney’s Office for prosecution,” even when the underlying alleged  
18 conduct is not criminal.

19       38. Each year, most of the County’s JJCPA funds are allocated to YAT.  
20 For fiscal year 2017–2018, the County proposed budget allocated \$10,627,404 to  
21 YAT, ninety-seven percent of the County’s JJCPA budget. The vast majority of  
22 these funds are allocated to pay the salaries of Probation officers, law enforcement,  
23 and District Attorneys’ office employees assigned to work with the YAT program.  
24 Over a span of eight years, between fiscal years 2009–2010 and 2016–2017, the  
25 average percentage of JJCPA funds allocated to salaries and benefits was 82.64%,  
26 while community-based organizations received an average of 8.10% of funds.  
27  
28

1 According to the terms of the MOU's, school districts also donate office space and  
2 supplies, like telephones, to YAT officers operating within their schools.

3       39.    YAT is currently established in seventeen school districts in Riverside  
4 County. In 2015, the most recent year of complete data available to Plaintiffs, 1,505  
5 children were referred to YAT and 915 were placed on probation. Defendants have  
6 actively sought to expand the number of young people placed on YAT probation,  
7 including by expanding their presence from high schools into middle schools in  
8 Riverside County. In 2016, the Department of Probation itself reported that it had  
9 launched an effort to increase referrals, "resulting in a 189% increase in the referrals  
10 received monthly."

11       C.    Defendants Use an Unconstitutionally Vague Law and Vague Referral  
12           Criteria to Funnel Children into YAT Probation for Common School  
13           Disobedience and Symptoms of Trauma

14       40.    Through YAT, Defendants actively solicit and facilitate referrals from  
15 schools, including for non-criminal behaviors, and rely on the vague terms of an  
16 antiquated incorrigibility law and an informal process to place children on terms of  
17 probation supervision that infringe their constitutional rights, frequently exceed the  
18 maximum penalties contemplated by the legislature, and come with other harmful  
19 direct consequences.

20       41.    Defendants frequently place children under onerous probation  
21 supervision not on the basis of the commission of any criminal offense, but merely  
22 adolescent misbehavior. A review of the first five years of YAT's operation found  
23 that at least seventy-six percent of referrals to YAT were made for status offenses—  
24 things that are only offenses because of a person's age—and recognized that "[i]n  
25 the past, the [Juvenile Justice] system or the community did not actively engage  
26 these youth."

27

28

1       42. Defendants hide behind the vague terms of California Welfare &  
2 Institutions Code section 601 (“Section 601”) to inveigle children as young as  
3 eleven years old into YAT and the criminal system for a wide range of typical  
4 school misbehavior and even for reasons that have nothing to do with accusations of  
5 misconduct. For example, some children have been referred to YAT because they  
6 have identifiable mental health needs, are exhibiting symptoms of trauma, or are  
7 simply showing signs of adolescent immaturity.

8       43. Section 601 makes it an offense for a juvenile to “persistent[ly] or  
9 habitual[ly] refuse[] to obey the reasonable and proper orders or directions of school  
10 authorities.” This antiquated provision dates to the earliest codification of California  
11 law, and to a time when legislative drafters presumed the state’s wide latitude to  
12 regulate the lives of juveniles, standing in the stead of their parents. The Supreme  
13 Court has since made clear that juveniles have constitutional rights, including the  
14 right to due process, which the state must respect. *See In re Gault*, 387 U.S. 1  
15 (1967). The terms of Section 601 cannot, therefore, remain unchanged and open-  
16 ended.

17       44. Section 601 provides no further definition of the term “persistently or  
18 habitually,” leaving the average child or adult to guess at how many instances, or  
19 how long a period of disobedience, might trigger the law’s invocation. Moreover,  
20 the law provides no further guidance in interpreting the term “reasonable and proper  
21 orders or directions.” Instead, enforcement authority is delegated to school staff,  
22 meaning that a teacher can elevate a violation of school rules to a justice system  
23 referral on the basis of his or her subjective judgment. The vague terms of these  
24 laws invite arbitrary and discriminatory enforcement. The discretion to interpret  
25 these vague terms invites implicit and explicit bias in referrals and outcomes  
26 impermissibly based on the race and disability status of the child.

27

28

1       45. Probation takes full advantage, assuming an unfettered grant of  
2 authority. It actively solicits and requires referrals to YAT from school staff  
3 pointing to the terms of an MOU they created. Probation encourages referrals for  
4 non-criminal, mundane childhood behavior, including: “failure/refusal to follow  
5 directives (actively or passively): at school (e.g. talking back to security guard) or at  
6 home (e.g. curfew, chores, telephone use)”; “general and repetitive disrespect  
7 toward family or school authority figures (incorrigible)”; and “anti-social behavior  
8 that disrupts classroom activity—talking during class, refusal to do work,  
9 prohibiting others from learning, walking out of class, talking back to the teacher,  
10 etc.—as reported by the teacher.”

11        46. A 2015 YAT Technical Report identifies possible “charges” for YAT  
12 referrals to include, *inter alia*, truancy, defiance/incorrigibility, and “mental issues.”  
13 “Mental issues” is further defined in YAT’s template entry assessment form to  
14 include “suicide attempts” and “treatment/problems.” The standard referral form  
15 created by YAT includes similar though not entirely consistent “problem areas” and  
16 “mental health issues” that school staff or other referrers can select for Riverside  
17 County to then funnel children in crisis into the YAT program and the criminal  
18 system.

19        47. Conflating childhood behavior with criminal conduct, Defendants fast-  
20 track and reroute children into criminal supervision who are processing deep grief or  
21 trauma, displaying signs of disability, or simply having an off day focusing and  
22 following directions. Indeed, children have been referred to YAT for:

- “behavior issues” (Cambodian elementary school student);
- “student behavior modification” (Latino seventh grader);
- “is easily persuaded by peers, is often late to school and classes” (Latina eighth grader);

- “engaged in profanity and willfully defied authority” (Black eighth grader);
- “caus[ing] daily disruptions by arriving late to nearly all of her classes” (Latina seventh grader);
- “poor attendance/grades. Lack of motivation. Mother has not been involved” (Native American eighth grader);
- “disrespectful towards peers and staff. Habitual foul language, refuses to follow rules” (Latino seventh grader with likely disability); and
- “caused daily classroom disruptions. Uses inappropriate language and refuses to do classwork” (Black sixth grader).

11       48. As these referrals demonstrate, an alleged violation of Section 601 is  
12 assessed not by any specific metric, but by an indeterminate and wholly subjective  
13 assessment of a student's behavior. The citations included on Probation contracts are  
14 no clearer. For example, Defendants have placed children on probation contracts for  
15 such vague and innocuous reasons as:

- “incorrigible minor” (Latina eighth grader from Mountain View Middle School, Beaumont Unified School District);
- “Suspension, Defiance, Disruptive Behavior, Previous MH Intervention” (white eighth grader from Riverside Unified School District);
- “601 (Defiance and Disruptive Behavior)” (Latino eighth grader from Mira Loma Middle School, Jurupa Unified School District); and
- “school discipline” (Latino fifth grader from Dr. Carreon Jr. Academy, Desert Sands Unified School District).

25       49. Often, Probation merely cites the catch-all phrase “601 WIC,” with no  
26 further specification, as the basis for placing children on YAT probation. Other  
27 times, Probation omits any reference to Section 601 or any other code section and

1 instead cites “school discipline,” “grades / behavior,” “disruptive school behavior  
2 and bullying,” and other school-related behavior on a YAT probation contract,  
3 adding to the uncertainty. Since 2005, Probation has swept into its supervision more  
4 than 12,971 children who had no previous history of court or probation involvement  
5 merely because Probation deemed the child to be “at risk” for future misbehavior  
6 and thus “soon to be within the [juvenile court’s] jurisdiction” under Section 654.

7       50. The terms of Sections 601 permit not only an arbitrary, but also a  
8 racially discriminatory exercise of law enforcement power. For example, one  
9 referral to YAT for an eleven-year-old sixth grader was in part based on the child’s  
10 perceived “use [of] ‘race card’ against [school] staff,” suggesting that students who  
11 challenge racial discrimination by school staff may be deemed offenders and “at  
12 risk” of becoming criminals. In Riverside County, and across the state, Black  
13 children are more likely than others to be charged with violating Section 601.  
14 Between 2003 and 2016, Black children in Riverside County were two and a half  
15 times more likely than their white counterparts to be referred to YAT under Section  
16 601. Latinx children were also almost one and half times more likely than their  
17 white peers to be referred to YAT under Section 601. Riverside County’s racial  
18 discrimination and abuse parallels findings in the context of school discipline, where  
19 racial disparities are most prevalent in discipline for subjectively-defined offenses,  
20 such as “disrespect.”

21       51. During the 2015–16 school year, Black children were referred to YAT  
22 at nearly three times their rate of enrollment countywide, and Black boys in  
23 particular were referred to YAT at *over* three times their rate of enrollment. About  
24 thirty-two percent of Riverside County students are Latinx, but Latinx students were  
25 more than thirty-nine percent of all YAT referrals during the 2015–16 school year.  
26 A significantly greater proportion (thirty percent) of referrals for Latinx students  
27  
28

1 were for the lowest-level, Section 601 offenses (defiance, incorrigibility, curfew and  
2 truancy), as compared to students in other racial groups.

3       52. Riverside County persistently abuses Section 601, ensnaring children  
4 experiencing grief, trauma, mental health issues, or behavioral disabilities and  
5 subjecting them to probation supervision and the criminal system. For example, one  
6 sixth grader was targeted for YAT after a conversation between an administrator and  
7 the student's parent revealed that the child was experiencing “[a]nger/grief issues[,  
8 is s]eparated from his father[, and] his [u]ncle died last year.” A Black seventh  
9 grader who was experiencing “grief over loss of [her] baby sister” was similarly  
10 referred to YAT probation for “grief, bullying, and instigation.” A middle school  
11 principal who knew that an eleven-year-old boy was homeless nonetheless sent the  
12 child to Probation because he was “frequently absent from school.” Under the vague  
13 terms of the law, the trauma and hardship associated with death and experiencing  
14 homelessness can be cited to sweep children into an unconstitutional program that  
15 turns their normal, age-appropriate reaction to difficult circumstances into  
16 “offenses,” sending them into a pipeline to the criminal justice system.

17 D. Defendants Disregard Fundamental Due Process Protections in Placing  
18       Children on Probation

19       53. Defendants have targeted and funneled thousands of children who  
20 would not otherwise be drawn into contact with the juvenile system, imposed  
21 onerous demands, and abused outmoded and vague statutory provisions. Further,  
22 Defendants, as a policy, practice, or custom, operate YAT in a manner that violates  
23 fundamental tenets of procedural due process, inducing “consent” that is not  
24 voluntary, knowing, or intelligent and is instead made without adequate notice or the  
25 advice of counsel and absent oversight or a meaningful opportunity to be heard by  
26 an independent arbitrator.

27  
28

1       54. Defendants authorize, approve, and encourage officers to use as little as  
2 a phone call to notify children and their families of referral to YAT. This practice  
3 fails to ensure that children have sufficient notice of the allegations against them and  
4 the consequences they face. A child's referral to the YAT program initiates a one-  
5 sided process controlled by Probation that operates without procedural safeguards  
6 that are fundamental to a lawful and credible justice system.

7       55. Even the most substantial form of notice contemplated by Defendants,  
8 a letter, falls far short of what due process requires. The letter is printed on  
9 Probation letterhead and indicates that the child was referred to YAT probation,  
10 which is described as a "diversion program." Because a referral can be made by  
11 anyone, for any reason, this may be the first time that a child and her family learn  
12 that she is accused of committing an offense or being vaguely "at risk" of  
13 committing a criminal offense. Information describing the reason for referral is  
14 limited to at most a legal code citation and a police report number, if one exists. The  
15 letter fails to provide the text describing the law the child allegedly violated, or any  
16 description of the conduct the child allegedly engaged in. This complete failure of  
17 notice places the burden on children and their families to figure out why they are  
18 required to meet with Probation.

19       56. Probation's letter also fails to provide any explanation of the child's  
20 rights, the juvenile court process, an explanation of the requirements of YAT  
21 probation, or the consequences that follow from being placed on YAT probation.  
22 Noticeably absent from the letter is any statement informing the child and the  
23 child's family that YAT probation is entirely voluntary. Instead, the terms of the  
24 letter indicate that compliance is required. The letter sometimes includes language  
25 indicating either that an appointment has been scheduled for a particular date and  
26 time, or that the parent "must contact [the probation officer] as soon as possible" to  
27 schedule an appointment. Both of these provisions convey that meeting with the  
28

1 probation officer is required. The probation officer may also include a warning in  
2 the letter that if a family fails to meet the appointment or response deadline, “the  
3 matter may be referred to the Riverside County District Attorney’s Office for the  
4 filing of criminal charges in Juvenile Court.”

5       57. Moreover, the notice letter is written in English. Apparently  
6 recognizing that many families in Riverside County speak Spanish as a first  
7 language, the letters also state in Spanish: “If you do not speak English, please bring  
8 a member of your family or a friend to be your interpreter.” The letter does not offer  
9 to provide a translation of the letter or to provide an interpreter for the appointment.  
10 The failure to provide translation only adds to the power imbalance and the inability  
11 of the child, and the family, to comprehend the circumstances and make an informed  
12 choice regarding YAT probation.

13       58. In other instances, and consistent with policy, practice, and custom,  
14 Probation fails to provide any formal written notification to a child and the child’s  
15 family indicating that the child has been referred to YAT. Instead, Defendants  
16 inform the family by phone or other informal means. When notice is provided  
17 during a phone call or by other informal means, it fails to provide the most basic  
18 assurances of fair process. There are serious consequences if a family does not  
19 understand or fails to remember details communicated solely over the phone.  
20 According to Defendants, failure to attend a meeting could result in criminal charges  
21 or a determination that the family is ineligible for diversion. At this critical juncture,  
22 notice by phone is wholly insufficient.

23       59. Children and their families thus arrive at the YAT probation meeting  
24 misled and believing that they face criminal charges and that they are required to  
25 meet with a probation officer, but without information about the charges, the  
26 juvenile court process, the terms and consequences of YAT probation, or their legal  
27 rights. In addition to the informational asymmetry, children who have never been in  
28

1 trouble with the law before walk into a law enforcement setting and are surrounded  
2 by several experienced, sometimes armed, law enforcement officers. These meetings  
3 are held at YAT offices or police departments and are attended by probation officers  
4 and police officers, who may be visibly armed. Representatives of the District  
5 Attorney's Office are also actively involved in preparing for YAT contract meetings  
6 and can attend. In addition to the lack of adequate notice, children are also without  
7 appointed counsel to advise them.

8       60. During the meeting, probation officers present children and their  
9 families with a YAT probation contract requiring compliance with numerous  
10 conditions to purportedly avoid the possibility of prosecution. Riverside County,  
11 however, does not prosecute Section 601 petitions, meaning that acquiescence to  
12 YAT in exchange for an agreement not to prosecute is entirely misleading, if not  
13 outright false. Moreover, children, and families, are not informed that the conditions  
14 of YAT probation are often more onerous than those they would face if they did not  
15 agree to YAT probation. For example, a first time possession of marijuana at school,  
16 if pursued, is punishable under California law by four hours of counseling and ten  
17 hours of community service, and no form of probationary supervision is authorized  
18 by the law. Cal. Health & Safety Code § 11357(d). However, children have been  
19 placed on probation supervision with many additional onerous terms for the same  
20 offense.

21       61. Surrounded by law enforcement, and lacking basic information and  
22 advice of counsel, a child is presented in this meeting with a critical decision: if she  
23 declines to accept probation supervision at this moment, according to Defendants,  
24 she may be required to go to court and may not be offered diversion again. If she  
25 accepts YAT probation, she submits to onerous terms of supervision. The decision  
26 carries consequences of which the child will likely be unaware, seriously impairing  
27 her ability to evaluate her options.

1       62. In these circumstances, a child cannot voluntarily, knowingly, or  
2 intelligently agree to YAT probation. Nor could their families or any adult.  
3 Defendant officers obtain acquiescence to YAT probation through a process marked  
4 by a complete lack of procedural safeguards and a coercive and intimidating  
5 environment.

6       63. Under these conditions, the likelihood that Plaintiffs' constitutional  
7 rights will be violated is clear. Federal and state constitutional laws, as well as state  
8 statutory laws, protect various children's rights implicated by the YAT probation  
9 placement procedures and the determination of whether to choose YAT probation or  
10 defend against allegations in court. These include liberty and privacy interests as  
11 well as the right to a speedy trial and the right to remain silent. The right to counsel  
12 is also afforded to California Juveniles in all proceedings under California Welfare  
13 & Institutions Code sections 601 and 602. Cal. Welf. & Inst. Code § 634. Despite  
14 the clear implications of a decision to accept YAT probation on these firmly  
15 established rights, Probation has no policies in place to ensure that officers respect  
16 these rights or advise children regarding their rights.

17 E. YAT Contract Conditions Exceed Statutorily Authorized Consequences and  
18 Unconstitutionally Intrude on Constitutional Rights

19       64. When a child acquiesces to participate in YAT, she receives a six-  
20 month probation contract memorialized on a standard, pre-filled form, which  
21 includes a checklist of default terms of YAT probation supervision. Additional  
22 terms may be checked or amendments made during the meeting. The terms of YAT  
23 probation are numerous, including required compliance with curfew, weekly check-  
24 ins with probation, attendance at weekly classes, requirements to obey parents,  
25 probation, and school authorities, notifications of any absence or late arrival at  
26 school, drug testing, requirements to attend a corrections facility tour, and other  
27 terms. These terms are not drawn based on a nexus with the underlying offense.

1       65. Pursuant to policy, practice, and custom, YAT probation imposes terms  
2 that are often more onerous and invasive than even court-ordered probation for  
3 similar offenses. The standard YAT probation contract permits YAT officers to  
4 impose broad search conditions stating: “I will submit to search/test of my  
5 person/vehicle/premises upon request of the Probation Officer or YAT member.”  
6 While this term encompasses testing, in some cases, a drug testing requirement is  
7 also included as a separate line. Children, and their families, are not informed that  
8 this term constitutes a waiver of their Fourth Amendment Rights. This term thus  
9 allows Defendants to assert broad authority to search and surveille children and their  
10 families, without even a determination of probable cause and without judicial  
11 oversight at any point in the process.

12       66. The Fourth Amendment prohibits the imposition of such broad search  
13 conditions without a conviction or adjudication of delinquency. California Welfare  
14 & Institutions Code section 654, cited by Defendants, does not extend authority to  
15 impose search conditions. However, a blanket search term is included in  
16 Defendants’ standard YAT probation contract. Defendants have no standard advisals  
17 of children’s Fourth Amendment rights. Children are presented with these terms, in  
18 the context of the highly imbalanced YAT contract meeting, and purportedly  
19 broadly waive their Fourth Amendment rights by signing the probation contract.  
20 Waiver in these circumstances is not and cannot be voluntary, knowing, or  
21 intelligent.

22       67. Pursuant to policy, practice, and custom, YAT team members also  
23 regularly remove children from classes to conduct “check-ins” during the school  
24 day. These check-ins interfere with a child’s school engagement and are not  
25 scheduled around the student’s or school’s needs, but on the basis of the YAT team  
26 members’ schedule. During these impromptu check-ins, YAT team members  
27 question children about topics including their social life, grades, and classroom  
28

1 subjects. While check-ins occur on a weekly basis, children do not always see the  
2 same YAT officer and have little understanding of the function of these check-ins.

3       68. The standard YAT probation contract also includes overbroad  
4 directives that chill and infringe upon the child's First Amendment rights to  
5 expressive association, including prohibiting association with anyone "not approved  
6 of by YAT" and requiring that the child "have no negative contact with anyone,"  
7 with no further definition of the nebulous term "negative contact."

8       69. YAT probation terms also commonly require a child to write an  
9 apology letter about the alleged reason for referral. These letters are likely to include  
10 admissions and other statements that could be used against a child in court.  
11 However, Defendants do not advise children of their rights. Nor do they provide any  
12 explanation of how these letters will be stored or used, and no assurance regarding  
13 whether the letters will be treated as confidential. YAT officers obtain a substantial  
14 amount of additional personal and sensitive information about the child and their  
15 families and provide no assurance regarding how they will use and store this  
16 information or under what circumstances the information may be disclosed to  
17 others.

18 F. Privacy Implications

19       70. YAT probation interferes with children's privacy. Defendants collect a  
20 wide array of private information about a child, such as: education records,  
21 counseling records, risk assessments, letters of apology, photographs, records of  
22 supervision contacts and home searches, and drug tests. YAT officers including law  
23 enforcement and the District Attorney's office engage in "an ongoing sharing of  
24 information" compiled about children through the course of YAT probation.  
25 Information may also be shared with other law enforcement agencies, such as gang  
26 task force officers.

27

28

1       71. YAT requests that schools making referrals provide “Discipline  
2 Records; Transcripts/Grades; and Attendance Records.” These records are supplied  
3 without parent or student consent, despite the fact that these records are subject to  
4 close confidentiality rules under the Family Educational Records and Privacy Act,  
5 20 U.S.C. § 1232g. In Murrieta, for example, YAT officers are given direct access  
6 to the school student records database. Information is also compiled from other law  
7 enforcement and social services data sources.

8       72. During the YAT probation contract meeting, YAT officers ask families  
9 questions about “[w]ho lives in the home” including “names and date of birth or  
10 age,” drug/alcohol abuse, domestic violence, probation or parole, weapons and  
11 ammunition, and any criminal history. They also conduct a risk assessment, using a  
12 standardized form asking questions about “[l]ack of knowledge by parents or  
13 guardians of minor’s friends and activities” and a lack of age-appropriate rule-  
14 setting; whether there are “chronic discipline problems”; whether the minor has  
15 engaged in “substance abuse multiple times, beyond experimentation”; whether  
16 “any relative with whom the minor associates with [sic] has . . . a prison record” or  
17 “pending an adult or juvenile adjudication”; and whether the minor “associates with  
18 a gang or tagging crew.” Children are also required to sign a release granting YAT  
19 officers access to highly personal counseling records.

20       73. Children referred to YAT probation are assigned a Central Intake  
21 Division (“CID”) number, which is used to track information about the child in  
22 Probation’s Juvenile Adult Management (“JAMs”) database. Upon information and  
23 belief, other agencies associated with YAT probation also record and maintain  
24 information about children in their own databases, using the same CID number or  
25 another unique identifier for the child. The files associated with a child’s CID  
26 number remain even if the child is not ultimately placed on YAT probation.

27

28

1 Probation and other YAT officers create field contact notes describing their contacts  
2 with children through YAT. These notes are then entered into the child's case file.

3       74. Defendants provide no explanation of the types of information gathered  
4 and retained on children who are placed on YAT probation. Nor do they provide  
5 information about how it will be stored, and what if any confidentiality protections  
6 are provided.

7       75. Defendants do not uniformly provide children placed on YAT  
8 probation with information about sealing records, or inform children of the  
9 possibility that records will be maintained by Probation and other agencies  
10 associated with YAT probation.

11 **G. Future Consequences of Placement on YAT Probation**

12       76. Beyond the immediate and gross violation of children's constitutional  
13 and civil rights, probation supervision through YAT produces numerous additional  
14 injuries. Entry into a YAT probation contract fast-tracks future contact with the  
15 criminal system and increases the severity of consequences. Once a child has gone  
16 through the YAT probation, she is presumed ineligible for diversion programs in the  
17 future. Children are deprived of the "second chance" that the Welfare and  
18 Institutions Code contemplates for first-time, low-level offenders, and are instead  
19 diverted *into* the justice system for non-criminal behavior through YAT probation.  
20 Failure to complete YAT successfully can also be used against the juvenile in  
21 sentencing in any future juvenile court proceeding.<sup>23</sup>

22 **H. The YAT Probation Program Has a Significant Adverse Impact on Black and**  
23 **Latinx Children**

24       77. The racist design of the YAT probation program ensures that Black and  
25 Latinx youth are overrepresented in and disproportionately impacted by the

---

26  
27       <sup>23</sup> See, e.g., *In re C.Z.*, 165 Cal. Rptr. 3d 409, 411 (Cal. Ct. App. 2013) (affirming  
28 denial of deferred sentence on basis of unsuccessful completion of Section 654  
program).

1 program's constitutional deficiencies. In YAT, "risk" is fundamentally related to  
2 race and ethnicity.

3       78. Defendants' association of Black and Latinx youth with "risk" and  
4 delinquency is epitomized by the Neighborhood Toxicity Formula, a metric  
5 designed to guide where the YAT program focuses its operation. The Neighborhood  
6 Toxicity Formula labels neighborhoods as more or less "toxic" based in part on their  
7 racial, ethnic, and socio-economic demographics. Under this formula, a  
8 neighborhood's toxicity increases when it has a large "non-white population," and is  
9 largely populated by residents who are "Hispanic/Latino," "recent immigrants," or  
10 "immigrants/temporary residents." The "Neighborhood Toxicity Calculation"  
11 further codifies racial bias by measuring "toxicity" through variables that are  
12 recognized code words for racial animus, including "dense multi-family housing,"  
13 "concentration of crime-prone age groups," and "family size." *See, e.g., Mhany*  
14 *Mgmt. Inc., v. Cnty. Of Nassau*, 819 F.3d 581, 608 (2d Cir. 2016) (holding that  
15 concerns from white community members that a proposed development would bring  
16 "full families living in one bedroom townhouses, two bedroom co-ops," and "four  
17 people or ten people in an apartment" suggested implicit racial bias via code words;  
18 and referencing empirical evidence that opponents to affordable housing often  
19 subtly reference immigrant families under the guise of fears that the proposed  
20 development "will bring in 'families with lots of kids'"). The Neighborhood  
21 Toxicity formula is set out in a 2005 program evaluation commissioned by  
22 Defendants from California State University, San Bernardino and used to make  
23 recommendations on the communities within Riverside County where Defendants  
24 should focus in operating the YAT program.

25       79. The racist assumption that a person's race or ethnicity makes them  
26 more or less "at risk" of future criminal behavior carries through to the day-to-day  
27 implementation of the YAT program. Probation uses a Risk Assessment Form to  
28

1 evaluate children referred and eligible for a YAT probation contract. The Risk  
2 Assessment Form used by Defendants is a four-point metric that purports to predict  
3 a child's risk of delinquency. The questions used to assign a risk score are broadly  
4 drafted, invite bias, and incorporate factors that are beyond individual control and  
5 perpetuate disparities and discrimination occurring elsewhere in the justice system  
6 and in school discipline. The risk assessment is not validated and the "risk" it  
7 purports to identify is generalized. The questions a YAT officer evaluates include  
8 whether: there is "[I]ack of knowledge by parents or guardians of minor's friends  
9 and activities" and a lack of age-appropriate rule-setting; whether there are "chronic  
10 discipline problems"; whether the minor has engaged in "substance abuse multiple  
11 times, beyond experimentation"; whether "any relative with whom the minor  
12 associates with has . . . a prison record" or "pending an adult or juvenile  
13 adjudication"; and whether the minor "associates with a gang or tagging crew."  
14 Based on these questions, a YAT officer assigns children a score between zero and  
15 four. This score is purportedly used to inform the decision to place a child on YAT  
16 probation.

17       80. Defendants' Risk Assessment Form has a significantly adverse and  
18 disparate impact on Black and Latinx children. The broadly drafted criteria of the  
19 Risk Assessment Form result in higher risk scores for Black and Latinx children  
20 when compared to similarly situated white children. Excluding any referrals to YAT  
21 deemed ineligible, over twenty-four percent of white youth evaluated received a  
22 score of 0 or 1. In contrast, only seventeen percent of Latinx children and sixteen  
23 percent of Black children received a score of 0 or 1. White children are more than  
24 twice as likely as Black children (three percent and seven percent, respectively) and  
25 1.6 times as likely as Latinx children to receive a risk score of 0. Similarly, when  
26 looking at the scores of 3 or 4, fifty-one percent of Black and Latinx youth were  
27  
28

1 assigned scores of either 3 or 4 points, where only forty-two percent of all white  
2 youth referred received a score of 3 or 4 points.

3       81. Defendants' policy, practice, and custom of disproportionately placing  
4 Black and Latinx youth on YAT probation contracts creates an additional layer of  
5 significantly adverse and disparate impact. Black and Latinx youth are less likely to  
6 be scored a risk factor of zero or one. When they do receive a risk score of zero or  
7 one, they are still more likely than white children with the same risk score to be  
8 placed on probation. A full sixty percent of Latinx youth, and fifty percent of Black  
9 youth who are evaluated as presenting no risk are nonetheless placed on probation.  
10 In contrast, forty-five percent of white youth scoring zero are placed on probation.  
11 Amongst youth scoring a 1 on the risk assessment, sixty-one percent of Black youth  
12 and fifty-seven percent of Latinx youth are still assigned a probation contract, while  
13 only fifty-two percent of white youth are assigned probation. At all levels, the Risk  
14 Assessment Form favors white children and criminalizes Black and Latinx children.

15       82. The racially disparate impact of Defendants' risk assessment and  
16 assignment of YAT probation contracts are in keeping with the YAT probation  
17 program's overarching approach to "toxicity" in the communities that make up  
18 Riverside County. The racially discriminatory operation of the YAT program means  
19 that Black and Latinx children are also disparately subjected to violations of their  
20 constitutional rights, including their due process rights, their First Amendment  
21 rights, and their Fourth Amendment rights.

22 I. Allegations of Named Plaintiffs

23 **Andrew M.**

24       83. Andrew M. was placed on YAT probation after goofing around with  
25 friends was met with a series of escalating and improper law enforcement responses.  
26 In the spring of 2017, Andrew was a thirteen-year-old eighth grader at Mountain  
27 View Middle School in Riverside County. Andrew's school was patrolled by Officer  
28

1 Lee, of the Moreno Valley Police Department. On February 9, 2017, during the  
2 lunch period, Andrew. was kicking an orange back and forth with friends in a  
3 makeshift game of soccer when he misdirected a kick and the orange rolled between  
4 Officer Lee's legs.

5 84. Officer Lee approached Andrew from behind, placed him in handcuffs,  
6 and led him to the office.

7 85. At the principal's office, Andrew saw Officer Lee whisper something  
8 to the assistant principal, Dr. Harris, before leaving the room. Thereafter, Dr. Harris  
9 turned to Andrew and stated "let me see your bag." Andrew handed over his  
10 backpack, which Dr. Harris then searched. She retrieved a small amount of  
11 marijuana. Following the search, Officer Lee issued Andrew a citation under  
12 California Health and Safety Code section 11357(d), a civil infraction for possession  
13 of marijuana.

14 86. The next morning, Andrew's mother, Denise M., went to the school to  
15 pick up a copy of Andrew's discipline notice. Dr. Harris also gave her a copy of a  
16 YAT probation contract with Andrew's identifying information entered into the top  
17 portion. Based on her communications with Dr. Harris, Denise understood that  
18 Andrew would be required to submit to YAT probation to avoid being expelled  
19 from school.

20 87. Several weeks later, on or about March 13, 2017, Andrew's mother  
21 received a phone call from Riverside County Probation Officer Natalie Holden,  
22 informing her that Andrew had been referred to YAT. Officer Holden informed  
23 Denise of some of the terms of YAT, including weekly check-ins and required  
24 community service hours. Denise requested a written confirmation of Andrew's  
25 referral and the required appointment details. In response, Officer Holden sent  
26 Denise an email confirming the date and time of Andrew's required appointment,  
27  
28

1 Tuesday, March 21, at 8:00 am, and the address of the police station where the  
2 meeting would occur.

3       88. On the date of the required meeting, Andrew arrived at the police  
4 station with his father, uncle, and grandmother. They were met by a female, who on  
5 information and belief was a plainclothes police officer, who escorted them to a  
6 small windowless office. As the female officer led them to the room, a male, who on  
7 information and belief was a plainclothes police officer, joined. The male officer  
8 was armed with a gun. Andrew felt alarmed and intimidated at the police station.  
9 Seeing the police officer's gun exacerbated his fears. Sitting at the conference room  
10 table, the female officer questioned Andrew and his family members about Andrew  
11 and his family, including about the friends Andrew M. hangs out with and whether  
12 anyone in Andrew's family has been involved with the criminal justice system.

13       89. The female officer then gave Andrew a contract for informal probation.  
14 Andrew's probation contract mirrored the standard probation contract used to train  
15 YAT officers. The contract indicated that a program of probation supervision under  
16 Section 654 was undertaken in lieu of filing a petition in Juvenile Court. Where the  
17 contract stated "You have been accused of the crime of \_\_\_\_" the female officer  
18 wrote "n/a. WIC 601/citation (infr.)," and included a nine-digit citation number. The  
19 contract included a number of pre-selected terms of supervision, including the  
20 requirements to abide by an 8:00 pm curfew, attend school and notify YAT officers  
21 of any absence before 9:00 am, "obey directives of the Probation Officer and YAT  
22 members," report to probation as directed, have "no negative contact with anyone,"  
23 complete twenty-five hours of community service, write an essay, attend counseling  
24 as directed, check in with YAT every Thursday, attend a tour of a correctional  
25 facility, attend programming at the Moreno Valley Police Department every  
26 Tuesday afternoon, and maintain good grades. The contract indicated that probation  
27 supervision would last for a term of six months and that "any violation of the terms  
28

1 and conditions may be grounds for referring the matter to the District Attorney’s  
2 Office for prosecution.” The prohibition on associating with anyone not approved  
3 was crossed out for Andrew’s contract, and the blanket search term was not checked  
4 off.

5       90. The numerous requirements of Andrew’s informal probation contract  
6 exceeded the consequences contemplated by the legislature under Health and Safety  
7 Code section 11357(d), which permits a maximum penalty of four hours of drug  
8 education or counseling and up to ten hours of community service for a first offense,  
9 and does not authorize any additional conditions of probation supervision.

10      91. Although the contract included language stating that probation  
11 supervision was undertaken with Andrew’s consent, and that Andrew “understood  
12 and agreed to comply” with the probation terms, Andrew did not believe he had a  
13 choice in submitting to YAT probation and did not understand fully the terms of the  
14 contract or the decision he purportedly made. Andrew, a thirteen-year-old boy who  
15 had never come in contact with the criminal justice system before, found himself  
16 pressured in a confining room with law enforcement at the police station. Across the  
17 table from Andrew were two authority figures he believed to be police officers, one  
18 of them visibly armed. In these circumstances, Andrew felt scared and intimidated.  
19 Beyond the ticket he received from Officer Lee, Andrew and his family had no  
20 information about the offense or offenses of which he was accused or the underlying  
21 factual allegations. No one provided Andrew with the information that would have  
22 allowed him to weigh the costs and benefits of opting to go to court or to accept  
23 informal probation. He had no information about his legal rights, including his right  
24 to counsel, which California law provides for any child petitioned under Section  
25 601, *see Cal. Welf. & Inst. Code § 634*, or his right to remain silent.

26      92. Andrew had no legal counsel who could have offered him guidance on  
27 the considerations he faced in this critical stage. A defense attorney could have  
28

1 advised Andrew that the terms of informal probation offered were in many ways  
2 more onerous than those a court could order under Section 11357(d). Counsel also  
3 could have warned Andrew that acquiescing to informal probation here, where he  
4 faced no criminal charges, would preclude the possibility of diversion in any future  
5 juvenile delinquency case and could be held against him in any future sentencing.  
6 So too, defense counsel could have probed the legal sufficiency of the alleged  
7 violation of Section 601, recognized that Section 601 cases are not heard by courts  
8 in Riverside County, and advised Andrew and his family of the possible defense  
9 based on the unlawful search of his backpack. In these circumstances—given the  
10 lack of adequate notice, the misleading information, and the coercive environment—  
11 Andrew could not have provided voluntary, knowing, and intelligent consent to  
12 submit to YAT probation.

13       93.    Although the YAT probation contract states that YAT probation is  
14 entered in lieu of prosecution, this did not hold true for Andrew. Shortly after being  
15 placed on YAT probation, Andrew also received a court summons for violation of  
16 California Health and Safety Code section 11357(d). Andrew appeared in Riverside  
17 County Superior Court on April 3, 2017 with his mother, his grandmother, and a  
18 Sigma Beta Xi mentor. Andrew had participated in Sigma Beta Xi’s mentoring  
19 program since the sixth grade, and Sigma Beta Xi presented a letter on his behalf,  
20 attesting to his good character and his participation in a community service program.  
21 The court accepted Andrew’s guilty plea and sentenced him to a suspended fine on  
22 the condition that he submit to one drug test and to complete ten hours of  
23 community services, which Andrew could complete with the Sigma Beta Xi  
24 program. Andrew subsequently completed these terms. Notably, these court-ordered  
25 conditions were less onerous than those specified in the YAT probation contract that  
26 was supposed to divert children like Andrew from harmful contact with the juvenile  
27 justice system.

28

1       94. During the six-month term of YAT probation extending into Andrew's  
2 ninth-grade year, Andrew was pulled out of class to check in with YAT officers  
3 multiple times. The officers were not always the same. These check-ins caused  
4 Andrew to be tardy to his fourth-period class so frequently that his school called his  
5 grandmother, who then worried that Andrew would face school discipline for  
6 truancy.

7       95. On one occasion, YAT officers removed Andrew from his fifth-period  
8 Spanish class even though he was taking a test that period. Andrew was then taken  
9 to another room and told to complete a fifty-question survey about how comfortable  
10 he felt with YAT. Andrew again told the officer that he was going to miss his  
11 Spanish quiz, but the officer still did not permit him to return to class. When  
12 Andrew was finally allowed to return to his Spanish class, he only had enough time  
13 to write his name, the date, and answer maybe just one question on the vocabulary  
14 test before class ended.

15       96. In addition to school time check-ins, YAT officers visited Andrew's  
16 home multiple times to inquire about his whereabouts and activities. During one  
17 visit, an officer told Andrew's mother that he must attend a mandatory YAT  
18 programming meeting at the Moreno Valley Police Department, or else face severe  
19 consequences.

20       97. According to the terms of the contract, Andrew's probation was set to  
21 end on September 21, 2017. Since that date, Andrew's mother has made several  
22 telephonic and in person requests for confirmation that Andrew successfully  
23 completed YAT probation and is no longer subject to probation terms. At one point,  
24 she was told that a confirmation letter was sent by mail and that another letter would  
25 be sent by mail. She never received a letter in the mail.

26

27

28

1 **Jacob T.**

2       98. Jacob T. was placed on YAT probation following a disputed altercation  
3 he had with a female classmate on March 5, 2018. On that day, Jacob was a sixteen-  
4 year-old, ninth-grade student at Canyon Springs High School in Moreno Valley.

5       99. Ten days later, on March 15, 2018, a Canyon Springs High School  
6 administrator called Jacob into his office to discuss the female student's allegations.  
7 When Jacob arrived, the administrator and an armed police officer were waiting in  
8 the office. The administrator called Jacob's mother, who insisted that they wait until  
9 she arrived to begin questioning Jacob. When Jacob's mother arrived, the  
10 administrator recounted the other student's allegations, which Jacob denied. The  
11 administrator suspended Jacob from Friday, March 16, 2018 to Thursday, March 22,  
12 2018. The administrator did not discuss YAT with Jacob or his mother during this  
13 meeting.

14       100. On March 19, 2018, four days after Jacob and his mother's meeting  
15 with the administrator, a probation officer called Jacob's mother. The officer told  
16 her that an assistant principal at Jacob's school had referred him to YAT. The  
17 probation officer provided only very minimal information about the program on the  
18 call, explaining that it was a probation program for "at-risk" teens with a number of  
19 requirements. The probation officer told Jacob's mother that Jacob. and his parents  
20 needed to go to the Moreno Valley police department station for a meeting.

21       101. On March 22, 2018, Jacob and both of his biological parents arrived at  
22 the Moreno Valley Police Department as they had been directed. A probation officer  
23 escorted the family to a small, windowless room. Once in the room, a second  
24 officer, who on information and belief was a law enforcement officer, joined  
25 carrying a YAT probation contract. The second officer was armed with pepper spray  
26 and handcuffs. The police officer stated her name and began checking off the terms  
27 of the probation contract.

28

1       102. During the meeting, the officers repeatedly told Jacob and his family  
2 that Jacob would be “a failure in life” and likely would end up in prison if he did not  
3 agree to participate in and successfully complete YAT. The officers failed to  
4 provide Jacob or his family time to consider the decision, failed to give them space  
5 to discuss their options, failed to provide any information about their legal rights,  
6 and failed to indicate that they could consult an attorney or have one present. The  
7 officers also failed to explain specifically why Jacob was referred to YAT. Jacob’s  
8 probation contract, moreover, merely stated “601 WIC” as the offense for which  
9 Jacob is on YAT probation. Critically, the officers failed to explain that Jacob faced  
10 no criminal charges and that agreeing to informal probation would preclude Jacob’s  
11 participation in any future diversion program. Without understanding the scope of  
12 the surveillance and believing that they had no choice in the matter, Jacob and his  
13 mother felt compelled to sign the YAT probation contract.

14       103. After the family signed the contract, the officers revealed for the first  
15 time that YAT community service requirements were mandatory and that Jacob’s  
16 room would be subject to unannounced searches.

17       104. The terms of Jacob’s YAT probation contract mirror those in the  
18 standard probation contract, including the requirements to abide by an 8:00 pm  
19 curfew, attend school and notify YAT officers of any absence before 9:00 am, “obey  
20 directives of the Probation Officer and YAT members,” report to probation as  
21 directed, have “no negative contact [with] anyone,” complete twenty-five hours of  
22 community service, write an essay, attend counseling as directed, check in with  
23 YAT every Thursday before 4:30 pm, attend a tour of a correctional facility, attend  
24 programming at the Moreno Valley Police Department every Tuesday afternoon,  
25 and maintain good grades. Among a long list of conditions, Jacob’s probation terms  
26 also include a prohibition on association “with anyone not approved” by YAT: a  
27 term allegedly authorizing “search/test of my person/vehicle/premises upon request  
28

1 of the Probation Officer or YAT member;” and an additional term requiring drug  
2 testing. The probation contract indicates that supervision will last for a term of six  
3 months and that “any violation of the terms and conditions may be grounds for  
4 referring the matter to the District Attorney’s Office for prosecution.”

5 105. Jacob is still required to comply with all of the terms of YAT  
6 probation. In the three months since he was placed on probation, Jacob has been  
7 subjected to at least five home visits and has been interrogated by police officers,  
8 probation officers, and deputy district attorneys, all YAT members.

9 106. Jacob currently attends Riverside County Education Academy. In or  
10 around May 2018, a probation officer pulled Jacob out of his fifth-period class to  
11 question him. Jacob was escorted into a conference room where he met with a  
12 probation officer alone. The officer interrogated Jacob for an extended period,  
13 causing Jacob T. to lose instruction time. Jacob and his parents are concerned that  
14 probation officers will continue pulling him out of class to interrogate him and  
15 interfere with his ability to perform well in school.

16 107. Probation officers have told Jacob that he will be subjected to at least  
17 one mandatory drug test within the six-month probation term. During a mandatory  
18 YAT programming meeting in or about April 2018, a YAT officer pulled Jacob  
19 from the meeting, followed Jacob into the restroom, and demanded that Jacob  
20 provide a urine sample.

21 108. Jacob and his family remain strongly dissatisfied with YAT, do not  
22 believe it has had or will have a positive impact on Jacob, and do not believe that  
23 Jacob T. has learned any new skills. In contrast, Jacob and his family believe that  
24 programs such as Sigma Beta Xi—in which Jacob is currently enrolled as a  
25 mentee—are much more effective in supporting Jacob and keeping him on track to  
26 graduate. Jacob’s YAT probation is set to expire on September 22, 2018. However,  
27 a YAT officer told Jacob that his probation supervision period could restart.  
28

1 **J.F.**

2       109. J.F., a Black female, was sixteen years old when she enrolled as a  
3 sophomore in Rancho Verde High School in Riverside County in the fall of 2017.  
4 J.F. had moved from her grandfather's home in Arizona to live with her  
5 grandmother, Cindy McConnell. J.F. struggled coping with her Oppositional Defiant  
6 Disorder and had extreme difficulty waking up early in time for school, where her  
7 first class started at 7:30 am. The school's and Defendants' response to J.F.'s  
8 struggles and late arrivals—placing her on YAT probation—failed to help J.F. and  
9 instead violated her rights.

10       110. Defendants placed J.F. on YAT probation on February 23, 2018, less  
11 than twenty-four hours after first meeting with officials from Val Verde Unified  
12 School District and two law enforcement officers regarding J.F.'s late arrivals. The  
13 officials implied that J.F. would be involuntarily transferred to a county continuation  
14 school, and her grandmother would face criminal charges, if J.F. did not acquiesce  
15 to YAT probation. Pressured, cornered, and concerned, J.F. felt she had no  
16 alternative but to submit to YAT. Defendants did not provide J.F. with notice of the  
17 violation she was accused of committing, information about the juvenile court  
18 process and the consequences and terms of YAT probation, or advise her of her  
19 legal rights. J.F. did not have the benefit of counsel or an impartial decision maker.  
20 In these circumstances, J.F. could not give voluntary, knowing, or informed consent  
21 to subject herself to YAT probation.

22       111. J.F. first met with a School Attendance Review Board ("SARB")  
23 official on or about late December 2017 or early January 2018. During that meeting,  
24 the SARB official told J.F. and her grandmother, Cindy McConnell, that the school  
25 district would help J.F. solve her attendance issues through a series of graduated  
26 responses. When Cindy received notice of a mandatory meeting scheduled for  
27  
28

1 February 22, 2018, she and J.F. expected the meeting would be similar to the prior  
2 meeting with the SARB official.

3 112. Instead, when they arrived on February 22, J.F. and Cindy quickly  
4 realized that it was unlike the previous meeting. J.F. and Cindy were escorted into a  
5 conference room where multiple District officials, including a Val Verde Unified  
6 School District School Board Member, Riverside County Probation Officer German  
7 Regin and an officer, who on information and belief is a law enforcement officer,  
8 and a woman typing formal meeting notes were waiting. During that meeting, the  
9 SARB panel chastised J.F. for her absences and poor grades, implied that the  
10 District could involuntarily transfer her to Val Verde Continuation School, and  
11 suggested that Cindy could face criminal charges if J.F.'s attendance did not  
12 improve. J.F. tried to explain her difficulty waking up early enough to make her first  
13 class at 7:30 am. The SARB panel told J.F. that if she wanted to improve her  
14 attendance and avoid involuntary transfer, she would have to submit to YAT  
15 probation. The SARB panel informed J.F. and Cindy that a mandatory YAT meeting  
16 was scheduled for 9:00 am the following day, February 23, 2018.

17 113. At 9:00 am on February 23, 2018, less than twenty-four hours after the  
18 SARB hearing, J.F. and Cindy arrived for the mandatory YAT meeting at Val Verde  
19 High School. There, they were met by Probation Officer Regin, of the Riverside  
20 County Probation Department, who escorted them to his office. Though they  
21 believed YAT probation was the only way to prevent J.F. from being pushed out of  
22 her school and Cindy from facing criminal charges, as the SARB panel suggested,  
23 neither J.F. nor Cindy knew exactly why J.F. was being put on probation.

24 114. After extensive questioning by Officer Regin, another officer briefly  
25 entered the room, stated his name, and plainly stated that he would be conducting  
26 visits to J.F. and Cindy's home. After that officer left, Officer Regin  
27 unapologetically gave J.F. and Cindy the probation contract that included  
28

1 preselected terms, consistent with the standard YAT probation contract, spent no  
2 more than a few minutes describing the YAT probation program, and instructed J.F.  
3 to read the contract herself, without providing any explanation of the probation  
4 contract's terms.

5        115. J.F.’s probation contract reflects that she is charged with the crime of  
6 “601 WIC,” but no YAT officer explained what this means. The contract also  
7 indicates that YAT probation was proposed “[i]n lieu of filing a Petition with the  
8 Juvenile Court.” J.F. and Cindy are uncertain but believe J.F. was placed on YAT  
9 probation either for attendance issues or for bad grades, both of which were  
10 mentioned by the SARB panel and Officer Regin. Looking at the term “601 WIC,”  
11 written on J.F.’s probation contract, Cindy wondered whether YAT was for low-  
12 income families that would qualify for the federal nutrition and health program for  
13 Women, Infants, and Children, commonly referred to as “WIC.”

14 116. All but one condition—mandatory check-ins—were preselected on  
15 J.F.’s YAT probation contract. As terms of her probation, J.F. is required to:

- Obey all laws and ordinances,
- adhere to a 10:00 pm curfew,
- “obey parents or guardian and keep them informed of [ ] whereabouts and associates,”
- attend school every period of every day and notify YAT officers of any absence before 9:00 am,
- “obey school officials/rules,”
- report to probation as directed,
- “obey directives of the Probation Officer and YAT members,”
- “not associate with anyone not approved by parent, YAT”;
- have “no association with negative influences,”

- 1       • have “no negative contact with anyone, including, parent, school
- 2        staff, peers, YAT members, or law enforcement,”
- 3       • submit a letter of apology,
- 4       • complete “20+” community service hours,
- 5       • write an essay,
- 6       • attend counseling as directed and continue receiving therapy
- 7        services from the County,
- 8       • attend a tour of a correctional facility,
- 9       • attend programming every Tuesday afternoon,
- 10       • “improve and maintain good grades and attendance,”
- 11       • maintain “good behavior at home and school,”
- 12       • “submit to search/tests of [her] person/vehicle/premises upon
- 13        request of the Probation Officer of YAT member,” and
- 14       • “attend any awareness classes deemed necessary. Parent(s) to
- 15        attend parenting if recommended.”

16       117. The probation contract also reflects that J.F. “understand[s that] home  
17       visits will be conducted by the team on an as needed basis,” and threatens that “any  
18       violation of these terms and conditions may be grounds for referring the matter to  
19       the District Attorney’s Office for prosecution.”

20       118. The numerous conditions in J.F.’s YAT probation contract conflict  
21       with the response to school attendance problems contemplated by the legislature  
22       which created SARBs to “[d]ivert pupils with serious attendance and behavioral  
23       problems from the juvenile justice system to agencies more directly related to the  
24       state public school system,” namely, “community-based and school-based  
25       programs.” Cal. Educ. Code § 48325.

26       119. Beyond the SARB meeting on February 22, 2018, and Officers Regin’s  
27       vague references to attendance and grades, J.F. and her grandmother Cindy had no  
28

1 information about the offense of which she was accused. Without knowing the  
2 direct consequences of accepting YAT probation, that she had the right to reject  
3 probation or particular terms, and without an understanding or advisement of the  
4 rights she waived, J.F. and Cindy had no opportunity to meaningfully weigh the  
5 costs and benefits of opting to go to court or to accept this purported informal  
6 probation. J.F. had no information about her legal rights, including her right to  
7 consult with counsel and her right to remain silent. Nor was there an impartial  
8 decision maker present.

9       120. J.F. had no legal counsel who could have offered her much-needed  
10 guidance on the considerations she faced in this critical stage. A defense attorney  
11 could have advised J.F. that the terms of informal probation offered were excessive  
12 and inappropriate under California law and warned J.F. that acquiescing to informal  
13 probation here, where she faced no criminal charges, would preclude the possibility  
14 of diversion in any future case and could be held against her in any future  
15 sentencing. So too, defense counsel could have probed the legal sufficiency of the  
16 alleged violation of Section 601 and recognized that Section 601 cases are not heard  
17 by courts in Riverside County. In these circumstances, J.F. could not have provided  
18 voluntary, knowing, or intelligent consent to submit to YAT probation.

19       121. Following J.F.'s entry into YAT probation on February 23, 2018,  
20 Officers Regin and a second officer have conducted at least five unannounced home  
21 visits to Cindy and J.F.'s home. During each visit, one officer has entered the home,  
22 observed the general areas, and stood at J.F.'s bedroom door to observe her room  
23 while asking J.F. about personal matters, including how J.F. treats Cindy, maintains  
24 cleanliness in her room, and conducts herself in romantic relationships.

25       122. A different YAT officer whose name J.F. does not know has also  
26 removed J.F. from class on several occasions for extensive meetings, interfering  
27 with her learning time. These visits typically occur during J.F.'s fifth-period History  
28

1 class, or sixth-period PE class. In addition to officers removing J.F. from class, Ms.  
2 Estrada, a woman identified as a YAT counselor, pulls J.F. out of school about once  
3 a week for about one hour. The meetings begin during J.F.'s second-period English  
4 class. Ms. Estrada is abrasive, judgmental, and undermines the progress that J.F. and  
5 Cindy have made with J.F.'s therapist.

6 123. J.F. is enrolled in summer school at Val Verde High School, a  
7 continuation school. Her classes take place directly across the hall from the  
8 designated YAT office. Due to the compressed timeframe, a single day of summer  
9 school covers an entire week's worth of class content. Despite the valuable  
10 instructional time, YAT officers have continued to pull J.F. from class during  
11 summer school. J.F., who is deficient in school credits, is fearful that YAT officers  
12 will continue removing her from class time during summer school, causing her to  
13 miss valuable educational time and compromising her ability to complete the  
14 summer school credits she needs.

15 124. J.F. finds the required YAT class topics—including murder and felony  
16 murder—completely unrelated to the reason she was placed on YAT probation. The  
17 meetings are also burdensome, beginning at the Perris Sheriff's Station less than one  
18 hour after J.F.'s regular school day ends in Val Verde, making it more difficult to  
19 complete her school homework.

20 125. J.F. is subject to her YAT probation contract and the attendant  
21 probation supervision until August 23, 2018.

22 **Sigma Beta Xi**

23 126. Sigma Beta Xi is a non-profit organization providing mentoring  
24 services primarily to Riverside County children of color, including children with  
25 disabilities, whose educational success is at risk due to poor grades, discipline, or  
26 other factors. Sigma Beta Xi contracts with public schools within Riverside County,  
27 who refer children to receive mentoring and support from Sigma Beta Xi. Sigma  
28

1 Beta Xi's mission is to establish strong families and communities by building an  
2 organization of diverse young men and women who will exemplify leadership and  
3 professionalism based upon the principles of brotherhood, sisterhood, excellence,  
4 endurance, wisdom, service, and unity.

5       127. Mentoring is central to Sigma Beta Xi's mission. Sigma Beta Xi  
6 employs twelve mentors who work to understand the environment from which the  
7 child comes to school, provide one-on-one mentoring and leadership development,  
8 and ultimately find ways to bring the child to her full potential. Sigma Beta Xi  
9 creates an individualized plan for each mentee that responds to the child's unique  
10 needs. Sigma Beta Xi offers more intensive mentoring services for mentees with  
11 greater needs, including additional mentoring hours, more support coordinating with  
12 caretakers and other service providers, more referrals to outside counseling, and  
13 additional extracurricular activities and field trips designed to foster leadership  
14 skills. Sigma Beta Xi also enrolls a select number of students in two enhanced  
15 programs. The first is its Rites of Passage Program, a resource-intensive support  
16 program that provides counseling services for students and their families and helps  
17 them deal with trauma, anger, anxiety, and depression. The second is its Positive  
18 Youth Justice Initiative Program, a leadership development program that trains and  
19 empowers youth to engage in community organizing and transform the criminal  
20 justice system.

21       128. Sigma Beta Xi offers a continuum of engagement and leadership  
22 opportunities for mentees as their involvement in the organization increases. All  
23 mentees receive one-on-one mentoring each week. Once mentees are  
24 developmentally ready for sharing in a group setting, mentees join Sigma Beta Xi's  
25 weekly group mentoring sessions. After sustained involvement with Sigma Beta Xi,  
26 mentees are given additional opportunities to develop their leadership and help  
27 shape the organization, such as by interviewing prospective mentors. A growing  
28

1 number of mentees also join Sigma Beta Xi's student fraternity, which operates  
2 under the Sigma Beta Xi name and provides additional opportunities for leadership  
3 and community service.

4 129. Numerous Sigma Beta Xi mentees, including Andrew M. and Jacob T.,  
5 have been placed on YAT probation.

6 130. As a result of mentees' experiences with YAT, Sigma Beta Xi's  
7 mission of building a diverse group of young professional leaders has been  
8 significantly frustrated. Mentees who currently are or have been on YAT probation  
9 are often more distrustful of adults, including their Sigma Beta Xi mentors. As a  
10 result, these mentees make slower progress in their mentoring sessions and take  
11 longer to advance, or do not fully advance, through Sigma Beta Xi's continuum of  
12 engagement and leadership opportunities.

13 131. To address its frustrated mission, Sigma Beta Xi has been forced to  
14 divert its limited resources in various ways. Sigma Beta Xi has assigned mentees  
15 who are or were on YAT probation to additional and more intensive services to  
16 ensure mentees can build trusting and effective relationships with mentors despite  
17 the mentees' experience with YAT probation. Mentors also engage in extra work to  
18 ensure that mentees involved with YAT are not prohibited from participating in  
19 Sigma Beta Xi activities and do not face additional consequences for participating in  
20 activities designed to provide opportunities for positive development. For example,  
21 Sigma Beta Xi had to intervene when Probation accused a mentee of violating the  
22 terms of her YAT probation by traveling to a student leadership summit in Los  
23 Angeles with Sigma Beta Xi. In other circumstances, Sigma Beta Xi mentors  
24 transport mentees to comply with onerous YAT probation supervision requirements.  
25 Additionally, Sigma Beta Xi mentors now require more training about YAT to  
26 ensure they can effectively support mentees whose lives are made more difficult by  
27 the program.

28

1        132. If Sigma Beta Xi were not required to spend these additional resources  
2 to address the frustration of mission created by Defendants' operation of YAT, it  
3 would be able to devote these resources to activities that further its mission. Sigma  
4 Beta Xi would be able to spend more time with individual mentees on positive  
5 leadership building activities, rather than addressing needs tied to complying with  
6 probation supervision. It could also use these resources to, for example, provide  
7 mentoring services to additional children in Riverside County, such as enrolling  
8 more children in its Rites of Passage and Positive Youth Justice Initiative programs.

## **V. CLASS ACTION ALLEGATIONS**

10        133. Jacob T. and J.F. (“Class Plaintiffs”) bring this class action on behalf of  
11 themselves and all others similarly situated pursuant to Federal Rule of Civil  
12 Procedure 23(b)(2).

13 134. Class Plaintiffs seek to certify a class defined as follows:

14 All children in Riverside County who have been referred to  
15 the Riverside County Youth Accountability Team (“YAT”)  
16 program pursuant to Cal. Welf. & Inst. Code § 601, and who  
have either been placed on a YAT probation contract or  
have been referred but not yet placed on a YAT probation  
contract.

18 | Those within the class are referred to herein as the “Class Members.”

19        135. The Class Members are so numerous that individual joinder of their  
20 members is impractical. Each year, thousands of children are referred to YAT.  
21 According to public records obtained from the Probation Department, in 2015, YAT  
22 received 1505 referrals. Each year, probation places between 400 and 500 children  
23 on YAT probation contracts. Of those, hundreds are referred to or placed on YAT  
24 pursuant to California Welfare and Institutions Code Section 601. The number of  
25 unnamed future class members who will be referred and subject to YAT probation  
26 through the policies, practices, and customs alleged herein is unknown and  
27 unknowable.

1 136. There exist questions of law and fact common to the entire class. These  
2 common questions of fact and law include, without limitation:

- 3 a) Whether Defendants are required to provide adequate notice to  
4 children who are referred to YAT of the basis and circumstances  
5 of their referral.
- 6 b) Whether Defendants are required to provide adequate notice to  
7 children who are referred to YAT of any statutes, other laws or  
8 rules they are alleged to have violated in connection with their  
9 YAT referral.
- 10 c) Whether Defendants are required to provide adequate  
11 explanation to children who are referred to YAT of the  
12 requirements of the YAT program and any consequences of  
13 participating in the YAT program.
- 14 d) Whether Defendants are required to provide adequate notice to  
15 children who are referred to YAT that participation in YAT will  
16 preclude them from participating in other diversionary programs  
17 in the future.
- 18 e) Whether Defendants are required to adequately advise children  
19 of their right to consult with legal counsel before the child  
20 decides whether to agree to a YAT probation contract.
- 21 f) Whether Defendants are required to provide adequate notice to  
22 children who are referred to YAT that agreeing to YAT may  
23 require them to submit to searches of their homes or persons.
- 24 g) Whether Defendants are required to provide adequate notice to  
25 children who are referred to YAT that agreeing to YAT may  
26 require them to waive their rights to associate with “anyone not  
27 approved” by YAT.

- 1       h) Whether Defendants are required to provide adequate notice to
- 2               children who are referred to YAT that agreeing to YAT may
- 3               prohibit them from having “negative contact with anyone,” in
- 4               violation of their expressive association rights.
- 5       i) Whether California Welfare & Institutions Code § 601 is
- 6               unconstitutionally vague.
- 7       j) Whether Defendants are required to operate the YAT program in
- 8               a non-discriminatory manner that does not have a
- 9               disproportionate effect on different racial or ethnic groups of
- 10               children.
- 11       k) Whether Defendants may use a risk assessment instrument that
- 12               scores Black and Latinx children as having a higher risk of
- 13               criminality as a basis for YAT placement.

137. Class Plaintiffs' claims are typical of those of the Class members in  
138 that they are children in Riverside County who were each referred to and placed on  
139 a YAT probation contract, and suffer the resulting violations of their civil rights  
140 under Constitutional and statutory laws due to Defendants' implementation of the  
141 YAT probation program.

19        138. Class Plaintiffs will fairly and adequately protect the interests of the  
20 Class Members. The Class Plaintiffs have a personal interest in the subject matter of  
21 this litigation and have no interests antagonistic to the interests of the class. Class  
22 Plaintiffs are represented by competent and experienced counsel in class action, civil  
23 rights, and constitutional litigation.

24 139. Defendants have acted and refused to act on grounds generally  
25 applicable to the Class Members, thereby making appropriate final injunctive relief  
26 and/or corresponding declarative relief with respect to the class and the subclasses  
27 as a whole. Fed. R. Civ. P. 23(b)(2).

1       140. The prosecution of individual actions against Defendants by individual  
2 class members would create a risk of inconsistent and varying adjudications and the  
3 establishment of incompatible standards of conduct across the Plaintiff Class. Fed.  
4 R. Civ. P. 23(b)(1).

## **FIRST CLAIM FOR RELIEF**

**Violation of the Due Process Clause of the Fourteenth Amendment  
to the U.S. Constitution  
42 U.S.C. § 1983  
(Deprivation of the Right to Procedural Due Process)  
(All Plaintiffs Against All Defendants)**

9       141. Plaintiffs incorporate herein by reference the allegations of Paragraphs  
10 1 through 140 as though fully set forth herein.

11 142. This claim is brought by Plaintiffs Andrew M. and Sigma Beta Xi on  
12 behalf of themselves and by Plaintiffs Jacob T. and J.F. on behalf of themselves and  
13 the members of the proposed class.

14        143. The Procedural Due Process Clause of the Fourteenth Amendment  
15 provides that no state shall “deprive any person of life, liberty, or property, without  
16 due process of law.” U.S. Const. amend. XIV.

17       144. Plaintiffs have a fundamental interest in their liberty to be free from the  
18 constraints of probationary supervision imposed by Defendants' YAT probation  
19 program. Defendants deprive Plaintiffs of their liberty interests without adequate  
20 procedural protections.

145. Defendants have a policy, practice, and custom of placing children on  
YAT probation through unfair procedures that deny Plaintiffs the ability to act in  
their own best interest and to make a voluntary, knowing, and intelligent decision  
regarding whether to accept YAT probation.

25        146. Defendants' policies, practices, and customs violate Plaintiffs' rights  
26 under the Fourteenth Amendment of the United States Constitution and cause

1 serious, irreparable, and lasting harm to these children, which they will continue to  
2 suffer in the absence of relief.

3       147. The mission of Sigma Beta Xi is also frustrated by the unlawful policy,  
4 practice, and custom of Defendants, and Sigma Beta Xi continues to divert resources  
5 as a result.

## SECOND CLAIM FOR RELIEF

**Violation of the Due Process Clause of the Fourteenth Amendment  
to the U.S. Constitution  
42 U.S.C. § 1983**

**42 U.S.C. § 1983**  
**(Welf. & Inst. Code § 601 is Overly Vague on Its Face in**  
**Violation of Due Process)**  
**(All Plaintiffs Against All Defendants)**

11        148. Plaintiffs incorporate herein by reference the allegations of Paragraphs  
12 1 through 140 as though fully set forth herein.

13       149. This claim is brought by Plaintiffs Andrew M. and Sigma Beta Xi on  
14 behalf of themselves and by Plaintiffs Jacob T. and J.F. on behalf of themselves and  
15 the members of the proposed class.

16        150. The Due Process Clause of the Fourteenth Amendment protects against  
17 the deprivation of life, liberty, or property without due process of law.

18        151. The terms of Section 601(b)—prohibiting “persistent or habitual refusal  
19 to obey the reasonable and proper orders or directions of school authorities”—are  
20 vague on their face. These terms fail to define the offense sufficiently to provide  
21 notice to the average child who is expected to comply with its terms of what conduct  
22 is prohibited or to provide sufficient guidance to those charged with its enforcement,  
23 authorizing and encouraging arbitrary and discriminatory enforcement.

24 152. Section 601 is the basis for Plaintiffs' referral to and their placement on  
25 YAT probation.

1        153. Defendants' enforcement of Section 601(b) causes serious, irreparable,  
2 and lasting harm to Plaintiffs, and they will continue to suffer irreparable harm in  
3 the absence of relief.

4        154. The mission of Sigma Beta Xi is also frustrated by Defendants'  
5 enforcement of Section 601(b), and Sigma Beta Xi continues to divert resources as a  
6 result.

### THIRD CLAIM FOR RELIEF

**Violation of the Due Process Clause of the Fourteenth Amendment  
to the U.S. Constitution  
42 U.S.C. § 1983**

**42 U.S.C. § 1983**  
**(Welf. & Inst. Code § 601 is Vague as Applied in Violation of Due Process)**  
**(All Plaintiffs Against All Defendants)**

11        155. Plaintiffs incorporate herein by reference the allegations of Paragraphs  
12 1 through 140 as though fully set forth herein.

13        156. This claim is brought by Plaintiffs Andrew M. and Sigma Beta Xi on  
14 behalf of themselves and by Plaintiffs Jacob T. and J.F. on behalf of themselves and  
15 the members of the proposed class.

16        157. The Due Process Clause of the Fourteenth Amendment protects against  
17 the deprivation of life, liberty, or property without due process of law.

18        158. Defendants apply Section 601, *inter alia*, through their criteria for  
19 referral and in their citation of Section 601 to place children on YAT probation.  
20 Defendants, as a matter of policy, practice, and custom, apply Section 601 in a  
21 manner that is overly vague. As applied by Defendants, Section 601 fails to define  
22 the offense sufficiently to provide notice to the average child of what conduct is  
23 prohibited or to provide sufficient guidance to those charged with its enforcement,  
24 authorizing and encouraging arbitrary and discriminatory enforcement.

25        159. Defendants' policies, practices, and customs violate Plaintiffs' rights  
26 under the Fourteenth Amendment of the United States Constitution and cause

1 serious, irreparable, and lasting harm to these children, which they will continue to  
2 suffer in the absence of relief.

3       160. The mission of Sigma Beta Xi is also frustrated by Defendants' policy,  
4 practice, and customs, and Sigma Beta Xi continues to divert resources as a result.

## **FOURTH CLAIM FOR RELIEF**

## **Violation of the Fourth Amendment to the U.S. Constitution**

42 U.S.C. § 1983

## **(Unreasonable Search And Seizure)**

**(Plaintiffs Sigma Beta Xi, Jacob T., and J.F. Against All Defendants)**

9       161. Plaintiffs incorporate herein by reference the allegations of Paragraphs  
10 1 through 140 as though fully set forth herein.

11        162. This claim is brought by Plaintiff Sigma Beta Xi on behalf of itself and  
12 by Plaintiffs Jacob T. and J.F. on behalf themselves and the members of the  
13 proposed class.

14        163. The Fourth Amendment of the United States Constitution protects the  
15 right to be free from unreasonable search and seizure.

16        164. Defendants, as a matter of policy, practice, and custom, *inter alia*,  
17 impose blanket search terms as a condition of YAT probation. These terms, as  
18 incorporated in YAT probation contracts, purport to authorize search of a child's  
19 person—including through drug testing—property, and premises. Defendants rely  
20 on these terms of YAT probation contracts to conduct drug testing and home  
21 searches of Plaintiffs without a warrant.

22        165. As a matter of policy, practice, and custom, Plaintiffs are not informed  
23 that these terms constitute a waiver of their rights under the Fourth Amendment. The  
24 terms are presented in a context that is coercive and in which Plaintiffs, children  
25 facing their first encounter with the justice system, are utterly lacking in relevant  
26 information. Any purported waiver or blanket consent to searches of their person,  
27 home, and property is not voluntary, knowing, or intelligent and is thus invalid.

1 166. Defendants' policies, practices, and customs violate Plaintiffs' rights  
2 under the Fourth Amendment of the United States Constitution and cause serious,  
3 irreparable, and lasting harm to these children, which they will continue to suffer in  
4 the absence of relief.

5        167. The mission of Sigma Beta Xi is also frustrated by Defendants'  
6 policies, practices, and customs, and Sigma Beta Xi continues to divert resources as  
7 a result.

## **FIFTH CLAIM FOR RELIEF**

## **Violation of the First Amendment to the U.S. Constitution**

**AMENDMENT TO  
42 U.S.C. § 1983**

**(Overbreadth, Violation of Freedom of Expressive Association)  
(Plaintiffs Sigma Beta Xi, Jacob T., and J.F. Against All Defendants)**

12        168. Plaintiffs incorporate herein by reference the allegations of Paragraphs  
13 1 through 140 as though fully set forth herein.

14        169. This claim is brought by Plaintiffs Sigma Beta Xi on behalf of itself  
15 and by Plaintiffs Jacob T. and J.F. on behalf of themselves and the members of the  
16 proposed class.

17        170. The First Amendment protects against overly broad laws that abridge  
18 the freedom of speech and the fundamental right to freedom of expressive  
19 association.

20        171. Defendants, as a matter of policy, practice, or custom, impose YAT  
21 probation conditions that prohibit association with “anyone not approved” by  
22 Defendants and prohibit children from having “any negative contact with anyone.”  
23 These terms are overbroad on their face because they reach a substantial amount of  
24 First Amendment protected activity. Any purported waiver or consent to such  
25 conditions is not knowing, voluntary, or intelligent and is thus invalid.

26 172. Defendants' policies, practices, and customs violate Plaintiffs' rights  
27 under the First Amendment of the United States Constitution and cause serious,

1 irreparable, and lasting harm to these children, which they will continue to suffer in  
2 the absence of relief.

3        173. The mission of Sigma Beta Xi is also frustrated by Defendants' policy,  
4 practice, and customs, and Sigma Beta Xi continues to divert resources as a result.

## **SIXTH CLAIM FOR RELIEF**

**Violation of Art. I, § 7 of the California Constitution  
(Deprivation of the Right to Procedural Due Process)  
(All Plaintiffs Against All Defendants)**

8       174. Plaintiffs incorporate herein by reference the allegations of Paragraphs  
9 1 through 140 as though fully set forth herein.

10        175. This claim is brought by Plaintiffs Andrew M. and Sigma Beta Xi on  
11 behalf of themselves and by Plaintiffs Jacob T. and J.F. on behalf of themselves and  
12 the members of the proposed class.

13        176. The California Constitution, Article I, section 7 provides that “a person  
14 may not be deprived of life, liberty, or property without due process of law.”

15        177. Plaintiffs have a fundamental interest in their liberty to be free from the  
16 constraints of probationary supervision imposed by Defendants' YAT probation  
17 program. Defendants deprive Plaintiffs of their liberty interests without adequate  
18 procedural protections.

19        178. Defendants have a policy, practice, and custom of placing children on  
20 YAT probation through unfair procedures that deny Plaintiffs the ability to act in  
21 their own best interest and to make a voluntary, knowing, and intelligent decision  
22 regarding whether to accept YAT probation.

23        179. Defendants' policies, practices, and customs violate Plaintiffs' rights  
24 under Article I § 7 of the California Constitution and cause serious, irreparable, and  
25 lasting harm to these children, which they will continue to suffer in the absence of  
26 relief.

1        180. The mission of Sigma Beta Xi is also frustrated by the unlawful policy,  
2 practice, and custom of Defendants, and Sigma Beta Xi continues to divert resources  
3 as a result.

## **SEVENTH CLAIM FOR RELIEF**

**Violation of Art. I, § 13 of the California Constitution  
(Unreasonable Search And Seizure)  
(Plaintiffs Sigma Beta Xi, Jacob T., and J.F. Against All Defendants)**

7 181. Plaintiffs incorporate herein by reference the allegations of Paragraphs  
8 1 through 140 as though fully set forth herein.

9       182. This claim is brought by Plaintiff Sigma Beta Xi on behalf of itself and  
10 by Plaintiffs Jacob T. and J.F. on behalf of themselves and the members of the  
11 proposed class.

12        183. Article I, section 13 of the California Constitution protects the right to  
13 be free from unreasonable search and seizure.

14        184. Defendants, as a matter of policy, practice, and custom, impose blanket  
15 search terms as a condition of YAT probation. These terms, as incorporated in YAT  
16 probation contracts, purport to authorize search of a child's person—including  
17 through drug testing—property, and premises. Defendants rely on these terms of  
18 YAT probation contracts to conduct drug testing and home searches of Plaintiffs  
19 without a warrant.

185. As a matter of policy, practice, and custom, Plaintiffs are not informed  
186 that these terms constitute a waiver of their rights under the Fourth Amendment. The  
187 terms are presented in a context that is coercive and in which Plaintiffs, children  
188 facing their first encounter with the justice system, are utterly lacking in relevant  
189 information. Any purported waiver or blanket consent to searches of their person,  
190 home, and property is not voluntary, knowing, or intelligent and is thus invalid.

26 186. Defendants' policies, practices, and customs violate Plaintiffs' rights  
27 under the Article I, section 13 of the California Constitution and cause serious,

1 irreparable, and lasting harm to these children, which they will continue to suffer in  
2 the absence of relief.

3 187. The mission of Sigma Beta Xi is also frustrated by Defendants policy,  
4 practice, and customs, and Sigma Beta Xi continues to divert resources as a result.

## **EIGHTH CLAIM FOR RELIEF**

**Violation of Art. I, §§ 2a, 3 of the California Constitution  
(Overbreadth, Violation of Freedom of Expressive Association)  
(Plaintiffs Sigma Beta Xi, Jacob T., and J.F. Against All Defendants)**

8       188. Plaintiffs incorporate herein by reference the allegations of Paragraphs  
9 1 through 140 as though fully set forth herein.

10       189. This claim is brought by Plaintiffs Sigma Beta Xi on behalf of itself  
11 and by Plaintiffs Jacob T. and J.F. on behalf of themselves and the members of the  
12 proposed class.

13        190. Article I, sections 2a and 3 of the California Constitution protect  
14 against overly broad laws that abridge the freedom of speech and the fundamental  
15 right to freedom of expressive association.

16        191. Defendants, as a matter of policy, practice, or custom, impose YAT  
17 probation conditions that prohibit association with “anyone not approved” by  
18 Defendants and prohibit children from having “any negative contact with anyone.”  
19 These terms are overbroad on their face because they reach a substantial amount of  
20 protected speech and expressive activity. Any purported waiver or consent to such  
21 conditions is not knowing, voluntary, or intelligent and is thus invalid.

192. Defendants' policies, practices, and customs violate Plaintiffs' rights  
under Article I, sections 2a and 3 of the California Constitution and cause serious,  
irreparable, and lasting harm to these children, which they will continue to suffer in  
the absence of relief.

193. The mission of Sigma Beta Xi is also frustrated by Defendants' policy, practice, and customs, and Sigma Beta Xi continues to divert resources as a result.

**NINTH CLAIM FOR RELIEF**

**Violation of Art. I, § 7 of the California Constitution  
(Welf. & Inst. Code § 601 is Overly Vague on Its Face  
in Violation of Due Process)  
(All Plaintiffs Against All Defendants)**

194. Plaintiffs incorporate herein by reference the allegations of Paragraphs  
1 through 140 as though fully set forth herein.

195. This claim is brought by Plaintiffs Andrew M. and Sigma Beta Xi on  
behalf of themselves and by Plaintiffs Jacob T. and J.F. on behalf of themselves and  
the members of the proposed class.

196. Article I § 7 of the California Constitution protects against the  
deprivation of life, liberty, or property without due process of law.

197. The terms of Section 601(b)—prohibiting “persistent or habitual refusal  
to obey the reasonable and proper orders or directions of school authorities”—are  
vague on their face. These terms fail to define the offense sufficiently to provide  
notice to the average child who is expected to comply with its terms of what conduct  
is prohibited or to provide sufficient guidance to those charged with its enforcement,  
authorizing and encouraging arbitrary and discriminatory enforcement.

198. Section 601 is the basis for Plaintiffs’ referral to and their placement on  
YAT probation.

199. Defendants’ enforcement of Section 601(b) causes serious, irreparable,  
and lasting harm to Plaintiffs, and they will continue to suffer irreparable harm in  
the absence of relief.

200. The mission of Sigma Beta Xi is also frustrated by Defendants’  
enforcement of Section 601(b), and Sigma Beta Xi continues to divert resources as a  
result.

25

26

27

28

**TENTH CLAIM FOR RELIEF**

**Violation of Art. I, § 7 of the California Constitution  
(Welf. & Inst. Code § 601 is Vague as Applied in Violation of Due Process)  
(All Plaintiffs Against All Defendants)**

201. Plaintiffs incorporate herein by reference the allegations of Paragraphs 1 through 140 as though fully set forth herein.

202. This claim is brought by Plaintiffs Andrew M. and Sigma Beta Xi on behalf of themselves and by Plaintiffs Jacob T. and J.F. on behalf of themselves and the members of the proposed class.

203. Article I, section 7 of the California Constitution protects against the deprivation of life, liberty, or property without due process of law.

204. Defendants apply Section 601 through their criteria for referral and in their citation of Section 601 to place children on YAT probation. Defendants, as a matter of policy, practice, and custom, apply Section 601 in a manner that is overly vague. As applied by Defendants, Section 601 fails to define the offense sufficiently to provide notice to the average child of what conduct is prohibited or to provide sufficient guidance to those charged with its enforcement, authorizing and encouraging arbitrary and discriminatory enforcement.

205. Defendants' policies, practices, and customs violate Plaintiffs' rights under the California Constitution and cause serious, irreparable, and lasting harm to these children, which they will continue to suffer in the absence of relief.

206. The mission of Sigma Beta Xi is also frustrated by Defendants' policies, practices, and customs, and Sigma Beta Xi continues to divert resources as a result.

24  
25  
26  
27  
28

**ELEVENTH CLAIM FOR RELIEF**

**Violation of California Government Code § 11135  
(The YAT probation program has a significantly adverse impact on Black and Latinx children)**

**(Plaintiffs Andrew M., Sigma Beta Xi, and J.F. against All Defendants)**

207. Plaintiffs incorporate herein by reference the allegations of Paragraphs 1 through 140 as though fully set forth herein.

208. This claim is brought by Plaintiffs Andrew M. and Sigma Beta Xi on behalf of themselves and by Plaintiff J.F. on behalf of herself and the members of the proposed class.

209. California Government Code section 11135 prohibits discrimination “under any program or activity that . . . receives any financial assistance from the state.”

210. Defendants’ operation of the YAT probation program has a significantly adverse and disproportionate impact on Black and Latinx children, including Plaintiffs Andrew M. and J.F. and the mentees of Plaintiff Sigma Beta Xi.

211. Defendants use a risk assessment instrument that results in Black and Latinx children being scored as having a higher risk of future criminality, an undefined concept, based upon broadly drafted questions that invite bias, and perpetuate disparities and discrimination occurring elsewhere in the criminal system and in school discipline. Black and Latinx children are scored as having higher risk than similarly situated white children under Defendants’ formula.

212. Defendants’ policy, practice, and custom of placing children on YAT probation contracts has an additional adverse and disparate impact on Black and Latinx children. Even among children who score as having no risk, Black and Latinx children are more likely than white children to be placed on YAT program contracts.

213. Defendants’ policies, practices, and customs violate Plaintiffs’ rights under California Government Code section 11135 and cause serious, irreparable,

1 and lasting harm to these children, which they will continue to suffer in the absence  
2 of relief.

3        214. The mission of Sigma Beta Xi is also frustrated by Defendants'  
4 policies, practices, and customs, and Sigma Beta Xi continues to divert resources as  
5 a result.

## PRAYER FOR RELIEF

**WHEREFORE**, Plaintiffs respectfully request that the Court:

- I. Assume jurisdiction of this matter;
- II. Certify a class under Fed. R. Civ. P. 23 (or other analogous procedures) as described above, pursuant to the forthcoming motion for class certification;
- III. Appoint the individual Plaintiffs as Class Representatives;
- IV. Appoint Plaintiffs' counsel as Class Counsel;
- V. Issue a declaratory judgment that:
  - A. California Welfare & Institutions Code section 601(b)'s prohibition of "persistent or habitual refusal to obey the reasonable and proper orders or directions of school authorities" is unconstitutionally vague;
  - B. Defendants' application of California Welfare & Institutions Code section 601 through the policies, practices, and customs of YAT is unconstitutionally vague;
  - C. Defendants' policy, practice, and custom of placing children in the YAT program under the circumstances described above, without adequate notice of (a) the charges against them or the underlying facts supporting the allegation, (b) their legal rights, including the right to consult with counsel, or (c) the possible consequences, and (d) under conditions that are coercive,

1 misleading, and otherwise do not permit voluntary, knowing, and  
2 intelligent consent violates Plaintiffs' rights under the Due  
3 Process Clause of the Fourteenth Amendment of the U.S.  
4 Constitution;

5 D. Defendants' policy, practice, and custom of searching the homes,  
6 belongings, and persons of children placed on YAT probation,  
7 including through drug testing, under the circumstances  
8 described above, violates Plaintiffs' rights to be free from  
9 unreasonable searches under the Fourth Amendment of the U.S.  
10 Constitution and Article I, section 13 of the California  
11 Constitution;

12 E. Defendants' policy, practice, and custom of prohibiting children  
13 placed on YAT probation from associating with anyone not  
14 approved of by Defendants is overbroad and violates Plaintiffs'  
15 rights under the First and Fourteenth Amendment of the U.S.  
16 Constitution, and violates Plaintiffs right to freedom of  
17 expressive association protected by the First Amendment of the  
18 U.S. Constitution; and

19 F. Defendants' policy, practice, and custom of operating the YAT  
20 probation program, including through utilizing its Risk  
21 Assessment Form and the placement of children on YAT  
22 probation, has a significant adverse impact on Black and Latinx  
23 children in violation of California Government Code section  
24 11135;

25 VI. Issue an Order for injunctive relief enjoining Defendant from:  
26  
27  
28

- 1                   A. Enforcing California Welfare & Institutions Code section  
2                   601(b)'s prohibition of "persistent or habitual refusal to obey the  
3                   reasonable and proper orders or directions of school authorities";  
4                   B. Continuing their policy, practice, and custom of applying  
5                   California Welfare & Institutions Code section 601 in an  
6                   unconstitutionally vague manner including through its referral  
7                   criteria and in placing children on YAT probation contracts;  
8                   C. Placing children on informal probation contracts, as described  
9                   above, or any other form of supervision by Defendant without  
10                   due process of law, including, but not limited to:
  - 11                   1. Notice containing, at a minimum: (a) an explanation of the  
12                   charges against a child and the specific conduct alleged to  
13                   violate the law; (b) an explanation of the juvenile court  
14                   process and of YAT probation sufficient for a child to  
15                   make an informed decision regarding participation in YAT  
16                   probation; (c) a statement of the child's rights, including  
17                   the right to consult with an attorney, the right to be free  
18                   from unreasonable searches, and the right to freedom of  
19                   association; and (d) a statement of the consequences a  
20                   court would be authorized to issue based on the specific  
21                   facts of the offense, and all the consequences resulting  
22                   from YAT;
  - 23                   2. Access to an attorney who can advise a child in deciding  
24                   whether accepting YAT probation is in their best interest;
- 25                   D. Searching the homes, property, or persons of children placed on  
26                   YAT probation on the basis of an informal probation contract, as  
27  
28

1 described above, and without a warrant or a specific exception  
2 under the Fourth Amendment;

3 E. Prohibiting children placed on YAT from associating with others  
4 “not approved of” by Defendants or others;

5 F. Continuing to maintain or make use of any records generated  
6 through referral and placement of Named Plaintiffs and class  
7 members on YAT probation; and

8 G. Operating the YAT probation program in a manner that has a  
9 significant adverse impact on Black and Latinx children,  
10 including but not limited to, the use of the Risk assessment form;

11 VII. Award Plaintiffs Andrew M., Jacob T., and J.F. nominal damages in  
12 the amount of one dollar each for violations by Defendants of their  
13 constitutional rights;

14 VIII. Award Plaintiffs’ costs and attorneys’ fees pursuant to 42 U.S.C. §  
15 1988; and

16 IX. Grant such equitable, further, and different relief as the Court deems  
17 just and proper.

18 X. The declaratory and injunctive relief requested in this action is sought  
19 against each Defendant; against each Defendant’s officers, employees,  
20 and agents; and against all persons acting in active concert or  
21 participation with any Defendant, or under any Defendant’s  
22 supervision, direction, or control.

23 Dated: July 1, 2018

24 Respectfully submitted,

25 /s/ Sylvia Torres-Guillén

26 Sylvia Torres-Guillén  
27 ACLU FOUNDATION OF SOUTHERN  
28 CALIFORNIA  
Hannah Comstock

1 Victor Leung  
2 Alexis Piazza

3 ACLU FOUNDATION OF NORTHERN  
4 CALIFORNIA  
5 Christine P. Sun  
6 Linnea L. Nelson

7 AMERICAN CIVIL LIBERTIES UNION  
8 FOUNDATION  
9 Sarah Hinger\*

10 ACLU FOUNDATION OF SAN DIEGO AND  
11 IMPERIAL COUNTIES  
12 David Loy  
13 Melissa Deleon

14 SHEPPARD, MULLIN, RICHTER  
15 & HAMPTON LLP  
16 Moe Keshavarzi  
17 Andrea N. Feathers

18 NATIONAL CENTER FOR YOUTH LAW  
19 Michael Harris

20 Attorneys for Plaintiffs

21 \**Pro Hac Vice* Motion to be submitted

22  
23  
24  
25  
26  
27  
28